

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION

4 UNITED STATES OF AMERICA) Docket No. A 12-CR-210 SS
5 vs.)
6 JOSE TREVINO-MORALES (3))
7 FRANCISCO ANTONIO)
8 COLORADO-CESSA (6))
9 FERNANDO SOLIS-GARCIA (7))
10 EUSEVIO MALDONADO-HUITRON(11))
11 JESUS MALDONADO-HUITRON (18)) April 17, 2013

12 TRANSCRIPT OF TRIAL ON THE MERITS
13 BEFORE THE HONORABLE SAM SPARKS
14 Volume 3 of 15

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Proceedings reported by computerized stenography, transcript produced by computer.

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08:26:31 1 THE COURT: All right, counsel, anything before we
08:27:01 2 bring in the jury?

08:27:02 3 MR. GARDNER: Not from the government, your Honor.

08:27:07 4 MS. WILLIAMS: No, your Honor.

08:27:08 5 THE COURT: Bring them in. Let's bring the witness in.

08:29:32 6 (Jury present.)

08:29:41 7 THE COURT: Members of the jury, since we last met, has
08:29:44 8 anyone attempted to talk to you about this case?

08:29:46 9 JURORS: No.

08:29:47 10 THE COURT: Have you talked to anyone about the case?

08:29:52 11 JURORS: No.

08:29:53 12 THE COURT: And have you learned anything at all about
08:29:57 13 the case, outside the presence of each other in this courtroom?

08:29:59 14 JURORS: No.

08:29:59 15 THE COURT: Show negative responses to all questions by
08:30:02 16 all jurors.

08:30:15 17 Have a seat, sir. Mr. Vasquez, you understand you're
08:30:22 18 still under oath to tell the truth under the penalties of
08:30:25 19 perjury?

08:30:26 20 THE WITNESS: Yes, sir.

08:30:26 21 THE COURT: All right. You may proceed.

08:30:28 22 JOSE L. VASQUEZ, JR., called by the Government, duly sworn.

08:30:28 23 CROSS-EXAMINATION (Resumed)

08:30:29 24 BY MR. FINN:

08:30:29 25 Q. Thank you, your Honor. May it please the Court. Members of

08:30:32 1 the jury, good morning.

08:30:32 2 Mr. Vasquez, we left off yesterday with a question that

08:30:36 3 was -- that I asked you that was, I guess, a little vague. If I

08:30:41 4 say the name AR-15, what does that mean to you?

08:30:46 5 A. It's an assault rifle.

08:30:47 6 Q. Right. And AK-47, what does that mean to you?

08:30:51 7 A. Assault rifle.

08:30:52 8 Q. Assault rifle? And .308, what does that mean to you?

08:30:57 9 A. It's the same thing.

08:30:58 10 Q. The same thing?

08:30:59 11 A. Yes, sir.

08:30:59 12 Q. So we're talking assault rifles?

08:31:01 13 A. Yes, sir.

08:31:01 14 Q. Right. Tell the members of the jury, if you don't mind, how

08:31:06 15 you're so familiar with assault weapons.

08:31:08 16 A. Well, how am I familiar with them?

08:31:11 17 Q. Right.

08:31:12 18 A. Is that what you're asking?

08:31:13 19 Q. Yeah. You bought them and sold them in -- to Mexico, right?

08:31:18 20 A. Yes.

08:31:19 21 Q. And you've admitted that you sold AR-15s, AK-47s, .308s and

08:31:26 22 anything bigger. You could get whatever you wanted, maybe even a

08:31:30 23 machine gun if you wanted, and those were sold by you,

08:31:34 24 transported to Mexico; is that correct?

08:31:36 25 A. Yes, sir.

08:31:38 1 Q. Tell the members of the jury about the chimney.

08:31:42 2 A. About the chimney? At my mother's house? What about --

08:31:47 3 what do you want me to tell them, that they found money there?

08:31:50 4 Q. You tell me.

08:31:51 5 A. Well, I had money inside my mother's chimney.

08:31:56 6 Q. Couple of bucks?

08:31:57 7 A. 500,000.

08:31:59 8 Q. \$500,000?

08:32:00 9 A. Yes, sir.

08:32:01 10 Q. In your mother's chimney?

08:32:02 11 A. Yes, sir.

08:32:05 12 Q. Now, when you pled guilty in front of Judge Crone, part of

08:32:11 13 the process was a presentence interview. Do you remember that?

08:32:16 14 A. Yes, sir.

08:32:16 15 Q. It's called a PSR or a presentence report?

08:32:20 16 A. Yes, sir.

08:32:21 17 Q. Remember that?

08:32:21 18 A. Yes, sir.

08:32:22 19 Q. And chances are your attorney, either Frank Perez or Rafael

08:32:27 20 De la Garza were with you during that interview. Do you remember

08:32:29 21 that?

08:32:30 22 A. Actually, they weren't.

08:32:31 23 Q. Okay. So it was you and a probation officer, correct?

08:32:34 24 A. Yes, sir.

08:32:35 25 Q. And they asked you questions like, hey, have you ever been

08:32:40 1 mentally impaired? Do you remember that?

08:32:42 2 A. Yes, sir.

08:32:43 3 Q. Have you ever been under the influence of alcohol or illegal

08:32:49 4 drugs, things like that, right?

08:32:50 5 A. Yes, sir.

08:32:51 6 Q. Your background, where you were born, where you were raised,

08:32:58 7 how many kids you have, things of that nature; is that correct?

08:33:01 8 A. Yes, sir.

08:33:02 9 Q. And you felt that you could tell the truth during that

08:33:06 10 interview, correct?

08:33:07 11 A. Yes, sir.

08:33:08 12 Q. And in the end of the day, a report was generated that was

08:33:12 13 about 15 or 20 pages long. It was typed up. Do you remember

08:33:16 14 that?

08:33:17 15 A. When we had that interview, it was done over the phone so.

08:33:21 16 Q. Okay. But do you remember seeing the report?

08:33:23 17 A. Yes, sir.

08:33:24 18 Q. Either your lawyer sent it to you or the probation

08:33:28 19 department sent it to you?

08:33:29 20 A. Yes, sir.

08:33:29 21 Q. And the whole purpose of the PSR, presentence report for

08:33:33 22 Judge Crone was to give her the full benefit of your background

08:33:40 23 and all relevant conduct. Do you remember that?

08:33:42 24 A. Yes, sir.

08:33:42 25 Q. Jose Trevino's name was never in that report, was it?

08:33:48 1 A. No, sir.

08:33:49 2 Q. I'm sorry?

08:33:50 3 A. No, sir.

08:33:56 4 Q. All right. Well, let's talk about the cash at the Wal-Mart,

08:34:03 5 or the Sam's Club, or whatever it was.

08:34:06 6 Initially when I heard your testimony, I thought that

08:34:09 7 you had delivered the cash, but that's not the case. You didn't

08:34:12 8 drive the cash, did you?

08:34:13 9 A. No, sir.

08:34:14 10 Q. Tell the members of the jury who allegedly, according to

08:34:18 11 you, delivered the cash.

08:34:19 12 A. My father.

08:34:20 13 Q. Okay. What's his name?

08:34:21 14 A. Jose Luis Vasquez, Sr.

08:34:23 15 Q. I'm sorry, sir. My Espanol is muy mal.

08:34:27 16 A. Jose Luis Vasquez, Sr.

08:34:34 17 Q. So you never saw my client, right?

08:34:37 18 A. No, sir.

08:34:39 19 Q. Ever, right?

08:34:40 20 A. No, sir.

08:34:46 21 Q. Is Jose Vasquez, Sr. alive and well, to the best of your

08:34:50 22 knowledge?

08:34:50 23 A. Yes, sir.

08:34:51 24 Q. Now, you also had, I think, a stash house at 406 Chancellor

08:34:59 25 Hill; is that correct?

08:35:00 1 A. Yes, sir.

08:35:04 2 Q. Please tell the members of the jury what a stash house is.

08:35:08 3 A. It's where I would hold the cocaine to be held at while we

08:35:13 4 distributed it.

08:35:14 5 Q. Okay. And were any of your family members at this stash

08:35:20 6 house?

08:35:20 7 A. No.

08:35:25 8 Q. So you had \$500,000 in a chimney. Tell the members of the

08:35:29 9 jury about when you were arrested. How did that go down?

08:35:34 10 A. When I was arrested, I turned myself in on the border of El

08:35:37 11 Paso and Texas.

08:35:39 12 Q. Right. We talked about that yesterday. You were worried

08:35:42 13 that the Federalis in the U.S. were going to go after your wife

08:35:48 14 and then, also, your mom because they found out that she had

08:35:51 15 half-a-million dollars squirreled away in her chimney; is that

08:35:56 16 right?

08:35:56 17 A. Yes, sir.

08:35:56 18 Q. That's all. Thank you, your Honor.

08:36:01 19 THE COURT: Mr. DeGeurin.

08:36:02 20 MR. DEGEURIN: No questions, your Honor.

08:36:05 21 MR. WOMACK: No questions.

08:36:09 22 MR. ESPER: I have a few, your Honor.

08:36:12 23 CROSS-EXAMINATION

08:36:12 24 BY MR. ESPER:

08:36:16 25 Q. Mr. Vasquez, yesterday, you indicated that you directed one

08:36:22 1 of your runners to send \$450,000 to the race track there in San
08:36:29 2 Antonio, Texas, but you didn't know to whom, correct?

08:36:32 3 A. Yes, sir.

08:36:33 4 Q. Do you recall having an interview with Agent Lawson of the
08:36:39 5 FBI, approximately a year ago?

08:36:45 6 A. I've seen him a couple of times.

08:36:48 7 Q. Okay. If I show you a copy of that report which indicates
08:36:53 8 who you delivered the money to, would that refresh your memory?

08:36:58 9 A. Probably so. I mean, I've been through a lot of interviews
08:37:01 10 already.

08:37:01 11 Q. I understand. I understand.

08:37:03 12 All I'm wanting to do is show you this, and if you
08:37:06 13 recognize it and agree with it, say so. If you don't agree with
08:37:09 14 it, say so.

08:37:10 15 A. Uh-huh.

08:37:11 16 Q. May I approach, your Honor?

08:37:12 17 MR. GARDNER: Your Honor. We object. It's not his
08:37:14 18 statement. It's Special Agent Lawson's statement.

08:37:16 19 MR. ESPER: Your Honor, I'm trying to establish whether
08:37:18 20 he's going to adopt this statement as his or not. Then I can
08:37:20 21 impeach him if he does or does not.

08:37:22 22 THE COURT: Impeach him on what? I don't recall any
08:37:26 23 questions about your client.

08:37:27 24 MR. ESPER: I'm asking him -- there's a statement he
08:37:29 25 made that he delivered --

08:37:30 1 THE COURT: I understand the problem. I know what
08:37:32 2 you're trying to do. I know what his objection is. I asked you
08:37:36 3 who you're trying -- what are you trying to impeach? What
08:37:40 4 testimony are you trying to impeach?

08:37:42 5 MR. ESPER: I'm trying to establish he identified who
08:37:44 6 he sent the money to in San Antonio, Texas.

08:37:48 7 THE COURT: By his non-statement? Show it to him.

08:37:53 8 MR. ESPER: Thank you, your Honor.

08:38:00 9 Q. (BY MR. ESPER) Could you read the highlighted part, sir?

08:38:04 10 A. The highlighted part?

08:38:05 11 Q. Yes.

08:38:06 12 A. On one occasion -- oh.

08:38:08 13 Q. Just read it to yourself.

08:38:29 14 Now, this is a statement that Agent Lawson typed up
08:38:31 15 after he interviewed you, correct?

08:38:33 16 A. Yes, sir.

08:38:33 17 Q. Is that statement accurate?

08:38:35 18 A. Yes, sir.

08:38:36 19 Q. Does it reflect who you claim you sent the money to?

08:38:39 20 A. Yes, sir.

08:38:40 21 Q. Who was that?

08:38:41 22 A. To Carlos Nayen.

08:38:42 23 Q. Okay. Now, you said you developed -- I mean, that you
08:38:47 24 distributed how many kilos of cocaine every month?

08:38:52 25 A. Roughly between 800 to a thousand.

08:38:54 1 Q. Okay. 800 to a thousand kilograms of marihuana?

08:38:58 2 A. Cocaine.

08:38:59 3 Q. Cocaine. I'm sorry. And there's, what, a thousand grams in

08:39:03 4 every kilogram?

08:39:03 5 A. Yes, sir.

08:39:04 6 Q. Okay. Have you ever thought about how many tens of

08:39:08 7 thousands of lives you destroyed in that process?

08:39:11 8 MR. GARDNER: Your Honor, I'll object as argumentative.

08:39:14 9 THE COURT: It's not relevant. That's more of the

08:39:17 10 objection. I sustain the objection. You can ask him about his

08:39:19 11 criminal record, ask him about whatever you wish, but let's keep

08:39:26 12 him in the bounds of impeachment.

08:39:28 13 Q. (BY MR. ESPER) During the two-year period that you were

08:39:30 14 distributing cocaine, how many thousands of kilograms did you

08:39:34 15 distribute in the United States?

08:39:38 16 A. I have no idea.

08:39:41 17 Q. More than a thousand kilograms?

08:39:43 18 A. Oh, yeah. We were doing 800 to a thousand a month. It had

08:39:46 19 to have been more than a thousand.

08:39:47 20 Q. Okay. So 800 to a thousand a month for at least two years,

08:39:51 21 correct?

08:39:51 22 A. At least a year and a half. Yes, sir.

08:39:53 23 Q. So anywhere from 24 to 30,000 kilograms a year over this 18

08:39:59 24 -year period?

08:40:00 25 A. Not every time it was 800 to a thousand. It was roughly

08:40:04 1 around there. I would say, maybe a good ten times.

08:40:11 2 Q. And now, while you're incarcerated, you're thinking -- and,

08:40:15 3 of course, you were making a lot of money back then, weren't you?

08:40:17 4 A. Yes, sir.

08:40:18 5 Q. Okay. And how many -- you made, what, millions of dollars?

08:40:21 6 A. Yes, sir.

08:40:22 7 Q. Okay. And now that you're in prison, you're trying to get

08:40:26 8 out of prison early, correct?

08:40:29 9 A. I'm trying to get out of prison early. I'm trying to help

08:40:33 10 myself. Yes, sir.

08:40:33 11 Q. Yeah. Okay. And back then when you were distributing

08:40:35 12 cocaine, you were helping yourself, weren't you?

08:40:37 13 A. Yes, sir.

08:40:38 14 Q. Okay. No further questions.

08:40:42 15 THE COURT: Mr. Mayr.

08:40:44 16 CROSS-EXAMINATION

08:40:45 17 BY MR. MAYR:

08:40:45 18 Q. Thank you.

08:40:46 19 Mr. Vasquez, I just want to be abundantly clear on

08:40:49 20 this. Did you ever tell anyone -- or, to your knowledge, did you

08:40:54 21 ever have any money delivered to Austin? After having had the

08:40:59 22 opportunity review your statement.

08:41:02 23 A. To Austin, I don't believe so. I don't believe I ever sent

08:41:04 24 money to Austin.

08:41:05 25 Q. No further questions, your Honor.

RE-DIRECT EXAMINATION

08:41:07 1 BY MR. GARDNER:

08:41:10 3 Q. Mr. Vasquez, why were you sending guns to Mexico?

08:41:13 4 A. Because they were asking for me to -- they asked me to buy
08:41:17 5 guns and send them to Mexico.

08:41:18 6 MR. ESPER: Excuse me, your Honor, can he be specific
08:41:21 7 on day and time, your Honor?

08:41:22 8 THE COURT: Well, I have a hunch that's his next
08:41:24 9 question.

08:41:24 10 Q. (BY MR. GARDNER) And who was the organization you were
08:41:26 11 sending the guns to?

08:41:28 12 A. To Los Zetas.

08:41:29 13 Q. And do you know what the Zetas were doing with the guns?

08:41:32 14 A. Yeah. I knew they were in a war with the Gulf cartel and
08:41:35 15 other cartels.

08:41:35 16 Q. So I know it's an obvious question. But what purpose did
08:41:40 17 they need the guns in connection with their war with the Gulf
08:41:43 18 cartel?

08:41:44 19 A. Well, to defend themselves. They were fighting for
08:41:46 20 territory. They were killing each other.

08:41:49 21 Q. And now, when Mr. Finn was asking about -- I know you can't
08:41:52 22 see it, but you testified in another trial and Mr. Finn has a
08:41:56 23 transcript of that trial, correct?

08:41:57 24 A. Yes, sir.

08:41:57 25 Q. That's what he was asking questions on. Did you tell the

08:42:00 1 jury in the other trial the same thing you've told this jury here
08:42:02 2 today?

08:42:03 3 A. Everything I answered, yes, sir.

08:42:05 4 Q. Yes, sir. And did that include the guns in that last trial?

08:42:10 5 A. I don't recall them asking me about guns, but if they did, I

08:42:13 6 answered it the same way.

08:42:14 7 Q. And that trial was on May 17th of 2012, last year, correct?

08:42:17 8 A. Yes, sir.

08:42:18 9 Q. Now, this pretrial interview that Mr. Finn asked you about,

08:42:22 10 did they ever ask you about Jose Trevino?

08:42:24 11 A. No, sir.

08:42:29 12 Q. And this money in a chimney, did you let law enforcement

08:42:32 13 know you had the money in the chimney?

08:42:34 14 A. My wife let agents know and they asked me and I confirmed

08:42:38 15 it. Told them where it was at.

08:42:39 16 Q. And law enforcement recovered that \$500,000 in the chimney?

08:42:42 17 A. Yes, sir.

08:42:43 18 Q. And, again, are you here today at the advice of your lawyer?

08:42:47 19 A. Yes. Yes, sir.

08:42:49 20 Q. Pass the witness, your Honor.

08:42:50 21 RE-CROSS EXAMINATION

08:42:50 22 BY MR. FINN:

08:42:53 23 Q. Mr. Vasquez, if it please the Court.

08:42:56 24 THE COURT: Yes, sir.

08:42:57 25 Q. (BY MR. FINN) Thank you, your Honor.

08:42:58 1 Mr. Vasquez, about how many guns would you say that you
08:43:00 2 shipped down to Mexico?

08:43:06 3 A. Maybe about 300.

08:43:07 4 Q. 300?

08:43:08 5 A. Yes, sir.

08:43:08 6 Q. And we're talking not just little cap pistols. AR-15,
08:43:13 7 AK-47s. How about any machine guns? Did you send any fully auto
08:43:18 8 weapons down to Mexico?

08:43:20 9 A. Yes, sir.

08:43:20 10 Q. Yes?

08:43:21 11 A. Yes, sir.

08:43:22 12 Q. Machine guns?

08:43:23 13 A. Yes, sir.

08:43:25 14 Q. Tell the members of the jury how many gun counts you've been
08:43:29 15 prosecuted for.

08:43:31 16 A. How many gun counts?

08:43:32 17 Q. Gun counts.

08:43:33 18 A. Zero.

08:43:36 19 Q. Zero.

08:43:36 20 A. Yes, sir.

08:43:38 21 Q. And you sent 300 guns, weapons, AR-15s, and machine guns
08:43:46 22 down to Mexico --

08:43:47 23 THE COURT: I believe everybody's heard that. Twice.

08:43:51 24 Q. (BY MR. FINN) And you didn't get a single gun count?

08:43:54 25 A. No, sir.

08:43:55 1 MR. GARDNER: Your Honor, repetitive.

08:43:56 2 THE COURT: I'll have counsel up here.

08:44:00 3 (At the bench, on the record.)

08:44:05 4 THE COURT: You want me to explain to the jury that his

08:44:19 5 sentence was enhanced because of the guns and that's what we do

08:44:24 6 in federal court? Drop it at this point. The guns you've

08:44:33 7 cleared -- you've gone into guns all the way. But --

08:44:39 8 MR. FINN: He could have gotten life with the gun

08:44:40 9 counts, Judge.

08:44:41 10 THE COURT: He doesn't have a damn thing to do with

08:44:42 11 what the charges were, and I'm going to explain that to the jury

08:44:48 12 right now. You may be seated.

08:45:00 13 Members of the jury, in the last series of questions,

08:45:05 14 of course, the defendant in a criminal case has nothing to do

08:45:10 15 with what charges are made against him. And the fact of relevant

08:45:17 16 conduct in federal court, whether it be here, in Dallas or Plano,

08:45:24 17 the sentence takes into consideration the relevant conduct, which

08:45:27 18 would have taken into consideration the guns.

08:45:30 19 Now, let's move on.

08:45:32 20 MR. FINN: Thank you, your Honor.

08:45:33 21 THE COURT: Yes, sir.

08:45:33 22 Q. (BY MR. FINN) Mr. Vasquez, we talked yesterday about your

08:45:39 23 federal case in North Texas. Do you remember that?

08:45:42 24 A. Yes, sir.

08:45:42 25 THE COURT: And you're on re-cross, which means you're

08:45:46 1 limited to the cross of the redirect of the prosecutor.

08:45:52 2 MR. FINN: Fair enough, Judge.

08:45:54 3 Q. (BY MR. FINN) And you filed an appeal of your sentence; is
08:45:57 4 that correct?

08:45:57 5 A. No, sir.

08:45:57 6 MR. GARDNER: Your Honor, object. Outside the bounds
08:46:00 7 of the government's redirect.

08:46:02 8 THE COURT: It is, but he's already asked the question.

08:46:06 9 So you may answer.

08:46:07 10 A. No, sir.

08:46:09 11 THE COURT: The answer's "No, sir." I suggest you stay
08:46:13 12 within the bounds of the redirect.

08:46:18 13 Q. (BY MR. FINN) You were never prosecuted for selling machine
08:46:23 14 guns to Mexico; is that correct?

08:46:24 15 MR. GARDNER: Your Honor, same objection. The
08:46:26 16 government asked him about his lawyer, were you asked about the
08:46:30 17 Trevinos --

08:46:30 18 THE COURT: He's already testified that he wasn't.

08:46:33 19 MR. GARDNER: Yes, sir.

08:46:36 20 THE COURT: Do you have any more repetitive questions?

08:46:39 21 MR. FINN: I've got some important questions, Judge.

08:46:41 22 THE COURT: Well, I'd suggest you get to them instead
08:46:44 23 of asking the ones you've already asked and got answers to.

08:46:47 24 MR. FINN: Fair enough.

08:46:48 25 THE COURT: All right.

08:46:48 1 MR. FINN: That's all, Judge.

08:46:49 2 THE COURT: All right.

08:46:50 3 MR. FINN: Thank you.

08:46:51 4 THE COURT: Yes, sir. Mr. DeGeurin.

08:46:54 5 MR. DEGEURIN: No, your Honor.

08:46:55 6 MR. WOMACK: Yes, your Honor, briefly in light of that.

08:46:57 7 CROSS-EXAMINATION

08:46:58 8 BY MR. WOMACK:

08:46:58 9 Q. Mr. Vasquez, I'm Guy Womack from Houston. We've never met

08:47:02 10 before, have we?

08:47:03 11 A. No, sir.

08:47:03 12 Q. When you bought these guns that you were testifying about,

08:47:07 13 did you buy them from dealers?

08:47:09 14 A. No, sir.

08:47:10 15 Q. Did you buy them at gun shows?

08:47:11 16 A. Yes, sir.

08:47:12 17 Q. When you bought them at gun shows, were these around Texas?

08:47:16 18 Or where were these gun shows?

08:47:17 19 A. Mainly in Dallas.

08:47:18 20 Q. Mainly in Dallas, Texas?

08:47:19 21 A. Yes, sir.

08:47:20 22 Q. Do you recall that when you bought them in Dallas, that you

08:47:23 23 had to fill out a federal form declaring whether or not you're a

08:47:26 24 U.S. citizen?

08:47:27 25 A. No, sir.

08:47:28 1 Q. Did you fill out any kind of paperwork at all when you
08:47:30 2 bought these guns?

08:47:31 3 A. No, sir.

08:47:31 4 Q. Did you buy all the guns yourself at the gun show, or did
08:47:34 5 you have other people do that?

08:47:35 6 A. Other people do it.

08:47:36 7 Q. And these other people that did it for you, they were buying
08:47:42 8 those guns knowing they were going to give them to you, correct?

08:47:44 9 A. Yes, sir.

08:47:45 10 Q. Did you know that that's a crime under federal law for you
08:47:48 11 to have someone buy a gun for you as a straw purchaser and give
08:47:53 12 it to you?

08:47:53 13 A. I did not know it. No, sir.

08:47:56 14 Q. You didn't know that?

08:47:57 15 A. We didn't ever fill out no kind of paperwork, not even the
08:48:00 16 people that bought it for me.

08:48:01 17 Q. Okay. But as you sit here in court under oath, is it your
08:48:04 18 sworn testimony you did not know when you were having other
08:48:07 19 people buy these guns for you that it's illegal under federal law
08:48:11 20 for a different person to buy a gun not for themselves but another
08:48:17 21 person to smuggle to Mexico? You didn't know that?

08:48:19 22 A. To smuggle to Mexico, I know that's a crime, but whether
08:48:22 23 they can buy it and give it to me, I didn't realize that was a
08:48:24 24 crime.

08:48:25 25 Q. And how many different people did you employ to buy these

08:48:29 1 guns for you, approximately?

08:48:31 2 A. Five or six.

08:48:32 3 Q. And they would buy multiple guns on different occasions?

08:48:35 4 A. Yes, sir.

08:48:36 5 Q. Okay. What benefit did you expect to get for having used

08:48:43 6 these straw buyers to illegally buy guns for you to illegally

08:48:47 7 smuggle them into Mexico? What benefit would you receive from

08:48:50 8 it?

08:48:51 9 A. Well, they told us we needed to get guns, so I had to get

08:48:54 10 them.

08:48:54 11 Q. I understand. But did you anticipate you'd get paid

08:48:57 12 something for the trouble of getting these people to do that?

08:49:01 13 A. No. We never got paid for it, but I charged a different

08:49:04 14 price than what it cost me. So I made something on the

08:49:07 15 purchases.

08:49:07 16 Q. Okay. So you had acquired the guns and sell them to the

08:49:11 17 Zetas, or whoever, and you would get the difference between what

08:49:14 18 you actually paid for the guns and what they paid for them?

08:49:16 19 A. Yes, sir.

08:49:16 20 Q. All right. And did you pay the straw purchasers to go out

08:49:21 21 and buy the guns for you?

08:49:22 22 A. Yes, sir.

08:49:23 23 Q. Okay. So for the promise of that money, whatever the profit

08:49:28 24 was on these weapons, you would have other people go out, go to

08:49:31 25 gun shows, buy guns to give you, that you could illegally smuggle

08:49:36 1 into Mexico, correct?

08:49:37 2 A. Yes, sir.

08:49:37 3 Q. And you do that for money?

08:49:38 4 A. Yes, sir.

08:49:39 5 Q. No further questions.

08:49:44 6 THE COURT: Mr. Esper.

08:49:46 7 MR. ESPER: Nothing, your Honor.

08:49:48 8 RE-CROSS EXAMINATION

08:49:49 9 BY MR. MAYR:

08:49:49 10 Q. Mr. Vasquez, when you sent those individuals to the gun show
08:49:51 11 to purchase those guns for you, did they know what they were
08:49:54 12 doing?

08:49:54 13 A. Yes, sir.

08:49:55 14 Q. Did they know that you were a drug dealer?

08:49:57 15 A. Yes, sir.

08:49:57 16 Q. Did they know that you were -- they were buying these guns
08:50:00 17 to have them sent to Mexico?

08:50:02 18 A. Yes, sir.

08:50:02 19 Q. Nothing further, your Honor.

08:50:06 20 MR. GARDNER: I have no further questions, your Honor.

08:50:08 21 May this witness be excused?

08:50:10 22 MR. FINN: No objection, your Honor.

08:50:12 23 MR. DEGEURIN: No objection.

08:50:14 24 MR. ESPER: No objection.

08:50:15 25 MR. MAYR: None, your Honor.

08:50:16 1 THE COURT: You may be excused, sir. You may call your
08:50:18 2 next witness.

08:50:20 3 MR. GARDNER: Your Honor, I would call Mr. Jose
08:50:22 4 Vasquez, Sr.

08:51:05 5 (Witness sworn.)

08:51:20 6 THE COURT: If you'll tell us your full name, please,
08:51:33 7 sir, and spell your last.

08:51:33 8 THE WITNESS: My full name is Jose Luis
08:51:38 9 Vasquez-Carasco.

08:51:41 10 JOSE L. VASQUEZ, SR., called by the Government, duly sworn.

08:51:41 11 DIRECT EXAMINATION

08:51:41 12 BY MR. GARDNER:

08:51:42 13 Q. Thank you, your Honor.

08:51:43 14 Mr. Vasquez, you and I have met before. I want to ask
08:51:47 15 you the first question: Are you comfortable speaking in English
08:51:49 16 here today?

08:51:49 17 A. Yes, sir.

08:51:49 18 Q. You and I met before; is that correct?

08:51:51 19 A. Yes, sir.

08:51:52 20 Q. If you will, could you introduce yourself to the jury? Tell
08:51:55 21 them how old a man you are, where you live, and how much
08:51:57 22 education you have.

08:52:00 23 A. My name is Jose Luis Vasquez-Carasco. I live in Dallas.

08:52:04 24 I'm a brick mason. I've been a brick mason for little over 30
08:52:12 25 years as a contractor. That's what I do for a living. I'm here

08:52:22 1 to --

08:52:23 2 Q. I'll ask you another question. Are you related to Jose

08:52:26 3 Vasquez, Jr.?

08:52:26 4 A. Yes, sir. He is my son.

08:52:29 5 Q. Now, I'd like you to tell the jury a little bit about your

08:52:33 6 job as a brick mason. What does that involve?

08:52:36 7 A. Brick mason, well, actually, I became a bricklayer since I

08:52:41 8 was 17 years old. I was still in high school. My dad was a

08:52:44 9 brick contractor, and that's how I got involved and been a brick

08:52:49 10 mason. After that, I went to look for a job some other person,

08:52:52 11 friend of mine. His name is Ray Burger. He hired me when I was

08:52:57 12 about 17, and I became a bricklayer with him and been a foreman

08:53:00 13 for him for almost three or four years. And then, after that, I

08:53:05 14 started contracting.

08:53:07 15 And it was -- I'm talking back in the early '80s. I

08:53:11 16 mean, I've been doing good doing brickwork. And that's what I

08:53:15 17 like to do, I mean, that's what I learned how to do and I make my

08:53:20 18 living is what I do.

08:53:21 19 Q. How much do you make a year as a brick mason?

08:53:25 20 A. It all depends because with the weather, sometimes you work

08:53:29 21 good, sometimes you don't. But you end up making from 30 to

08:53:33 22 \$50,000 a year doing that kind of work.

08:53:34 23 Q. And does that depend whether you're an hourly employee or

08:53:40 24 contractor?

08:53:40 25 A. It all depends. Sometimes you make more if -- when you're

08:53:43 1 contracting, you can make a little bit more. I say if you work
08:53:48 2 hourly, I mean, average person makes 700, \$800 a week nowadays
08:53:54 3 laying brick. If you're contracting, you might make 1,000 to
08:53:57 4 1,500 a week if you're contracting. It all depends what you're
08:54:01 5 doing.

08:54:01 6 Q. What is your immigration status here in the United States?

08:54:05 7 A. Say that again, sir.

08:54:06 8 Q. What is your immigration status here in the United States?

08:54:08 9 A. I'm a resident. I never did became a citizen because I've
08:54:14 10 been in Dallas, in the United States all my life.

08:54:16 11 MR. MAYR: Objection. Nonresponsive.

08:54:18 12 THE COURT: Okay. Mr. Vasquez, if you can answer the
08:54:21 13 question "Yes" or "No," go ahead and answer. We've got a lot of
08:54:25 14 lawyers that are going to ask you questions.

08:54:26 15 THE WITNESS: Okay, sir. Thank you.

08:54:27 16 Q. (BY MR. GARDNER) Thank you, Mr. Vasquez.

08:54:29 17 When you did you first come to the United States?

08:54:33 18 A. I was a baby because my parents brought me over to the
08:54:39 19 United States.

08:54:39 20 Q. So you've been here the majority of your adult life?

08:54:42 21 A. Yes, sir.

08:54:42 22 Q. Now, are you charged with a conspiracy case in Dallas?

08:54:49 23 A. Say that again, please, sir.

08:54:50 24 Q. I said, are you charged in indictments in the Plano, Eastern
08:54:55 25 District of Texas for a conspiracy case?

08:54:56 1 A. Yes, sir.

08:54:56 2 Q. Is that the same case your son's involved in?

08:55:00 3 A. I believe so, sir.

08:55:02 4 Q. And have you entered a plea in front of the judge up there

08:55:06 5 yet, a plea of guilty?

08:55:07 6 A. Yes, sir.

08:55:09 7 Q. And have you been sentenced yet, sir?

08:55:11 8 A. No, sir.

08:55:12 9 Q. And are you currently out on what they call bond, pretrial

08:55:16 10 release on bond?

08:55:16 11 A. Yes, sir.

08:55:19 12 Q. And when were you arrested?

08:55:23 13 A. When was I arrested? About a month ago.

08:55:29 14 Q. And where were you prior to being arrested?

08:55:33 15 A. Repeat that to me, sir. I don't understand that.

08:55:35 16 Q. Were you in the United States prior to being arrested?

08:55:38 17 A. No, sir. I was in Veracruz, Mexico and I came -- I flew

08:55:43 18 into the United States, and when I arrived on the plane, they

08:55:47 19 arrested me.

08:55:47 20 Q. And did you turn yourself in? Did they know you --

08:55:49 21 A. I turned myself in. Yes, sir.

08:55:51 22 Q. And why did you turn yourself in?

08:55:55 23 A. I want to -- I have to turn myself in. I want to get this

08:56:00 24 over with. I mean, I don't know. I don't want to be running

08:56:05 25 from the law.

08:56:09 1 Q. And what do you hope to get out of your testimony today?

08:56:15 2 What benefit do you hope to receive?

08:56:16 3 A. I don't really expect to get nothing. I expect to God to

08:56:20 4 get over this matter that I got involved. As of my age, I

08:56:24 5 shouldn't have never been involved, but it's too late. I pray to

08:56:26 6 God to get out of this. That's all.

08:56:28 7 Q. And do you realize that neither myself nor Judge Sparks is

08:56:31 8 going to determine your sentence?

08:56:36 9 A. I don't know who's going to determine my sentence, but I

08:56:41 10 just pray to God it's whatever happens. It's got to be done what

08:56:43 11 it's got to be done.

08:56:45 12 Q. So what was your involvement in your son's business?

08:56:51 13 A. I would take care of some money. He had me to deliver money

08:56:56 14 to here and there for different persons. That's all.

08:56:58 15 Q. Were you involved in the cocaine side of the business?

08:57:01 16 A. No, sir. No, sir.

08:57:02 17 Q. So when you say you were involved on the money side

08:57:05 18 delivering to people, are you familiar with an individual by the

08:57:08 19 name of Hector Moreno?

08:57:10 20 A. Yes, sir. I do.

08:57:11 21 Q. And how do you know him?

08:57:14 22 A. He was the -- one of the guys who handled the money that he

08:57:19 23 was seeing to.

08:57:22 24 Q. So what performance or what things did you do with Mr.

08:57:25 25 Moreno, Hector Moreno?

08:57:29 1 A. Hector Moreno would send his people or his brothers into the
08:57:37 2 United States to pick up the money to take back to Mexico, and I
08:57:40 3 would have the money to give them the amount of money to take
08:57:44 4 back to Mexico.

08:57:45 5 Q. Was that the money from the sale of cocaine?

08:57:48 6 A. Yes, sir.

08:57:50 7 Q. Now, I want to talk to you about a few of your money
08:57:54 8 deliveries. Let's talk about first one to Oklahoma. Could you
08:57:59 9 please tell the ladies and gentlemen of the jury, did you ever
08:58:01 10 take money to Oklahoma?

08:58:02 11 A. Yes, I did. I took some money to a person in Oklahoma for
08:58:11 12 some horses that the people bought. I don't know exactly who,
08:58:14 13 but they bought some horses that I took some money to a person
08:58:18 14 that's in Oklahoma.

08:58:19 15 Q. Do you remember how much money you took?

08:58:21 16 A. It would average about \$120,000, \$130,000.

08:58:25 17 Q. And was that in cash?

08:58:27 18 A. Yes, sir. That was in cash.

08:58:28 19 Q. And do you recall where in Oklahoma you took that money?

08:58:31 20 A. Yes, sir. I can't give you the address, but if you ask me
08:58:35 21 to take you, I'll be glad to take you. I don't know the address.

08:58:38 22 Q. Do you recall where it was in relation to the Oklahoma-Texas
08:58:42 23 border?

08:58:44 24 A. I met the person in the casino called WinStar Casino, I met
08:58:50 25 him right there. And from that casino to his place, not even

08:58:53 1 five minutes from right there.

08:58:55 2 Q. Is that casino on the Oklahoma-Texas border?

08:58:58 3 A. Right on the -- right. Yes, sir.

08:59:02 4 Q. Do you recall the denominations, the bills, the types of

08:59:06 5 bills that you took up there? Was it 100s, 20s, 10s?

08:59:14 6 A. It was all 100 bills.

08:59:17 7 Q. And how was it packaged or wrapped?

08:59:20 8 A. There was wrapped in rubber-bands and in a bag that you can

08:59:27 9 see -- you couldn't see the money. It's just inside the bag.

08:59:30 10 Q. And did the gentleman that you gave the money to, did you

08:59:32 11 actually take the horses with you?

08:59:34 12 A. No. I just dropped the money and that's it.

08:59:38 13 Q. Did he give you any paperwork for the horses?

08:59:40 14 A. He gave me -- I don't know exactly how to say it but birth

08:59:45 15 certificate of the horse, whatever, the paper for the horse, the

08:59:50 16 birth paper, like what kind of brand of horse it was and all

08:59:54 17 that. And they gave me the paper to take back to the people.

09:00:01 18 Q. Do you know an individual by the name of Nayen, Carlos

09:00:04 19 Nayen?

09:00:04 20 A. Carlos Nayen, yes, sir.

09:00:06 21 Q. I'm going to show you Government's Exhibit 335E. Do you

09:00:14 22 recognize that picture, sir?

09:00:15 23 A. Yes, sir.

09:00:15 24 Q. Is that the individual you identified as Carlos Nayen?

09:00:19 25 A. Yes, sir. But it's not the person that I took money to

09:00:22 1 Oklahoma.

09:00:23 2 Q. All right. Thank you.

09:00:27 3 MR. GARDNER: Your Honor, I offer Government's Exhibit

09:00:28 4 335E. Certified copy of Mr. Nayen's immigration picture and

09:00:36 5 then, a copy on the back.

09:00:38 6 MR. FINN: No objection, your Honor.

09:00:40 7 MR. DEGEURIN: May I look at it again?

09:00:57 8 MR. WOMACK: No objection.

09:00:58 9 MR. ESPER: I have none.

09:01:02 10 THE COURT: 335E is admitted.

09:01:11 11 MR. DEGEURIN: May we have just a moment, Judge?

09:01:14 12 THE COURT: Okay.

09:01:45 13 MR. MAYR: I have no objection, your Honor.

09:01:46 14 MR. DEGEURIN: No objection to our agreement, your

09:01:46 15 Honor.

09:01:48 16 THE COURT: All right. It's still admitted. Now let's

09:01:50 17 proceed.

09:01:51 18 Q. (BY MR. GARDNER) Now, Mr. Vasquez, you said earlier, this

09:02:03 19 was not the person you delivered the money to in Oklahoma.

09:02:07 20 A. Right, sir.

09:02:08 21 Q. All right. Did you at some occasion drive money to this

09:02:10 22 individual?

09:02:11 23 A. Yes, I did.

09:02:11 24 Q. And when was that?

09:02:18 25 A. Where or where?

09:02:24 1 Q. When, sir?

09:02:25 2 A. When? It's been over close to four years ago.

09:02:30 3 Q. And now, the next question, where did you deliver that

09:02:33 4 money?

09:02:34 5 A. He was at a hotel in -- on 183 by the DFW Airport. I

09:02:41 6 believe it was by the Hilton Hotel right there on 183.

09:02:45 7 Q. And did you have a conversation with him when he delivered

09:02:48 8 the money?

09:02:49 9 A. He tried to chat with me a little bit, and I just gave him

09:02:53 10 the money in the bag, and he and the other guy together grabbed

09:03:00 11 the money and see you later. That's it.

09:03:01 12 Q. Do you remember how much money you gave Mr. Nayen?

09:03:04 13 A. About 120, \$130,000 cash.

09:03:08 14 Q. All cash?

09:03:08 15 A. Yes.

09:03:09 16 Q. And was it in denominations of that delivery in 100s, as

09:03:13 17 well?

09:03:13 18 A. Yeah. I couldn't say how much 20s. He had a little bit of

09:03:17 19 20s, but mostly it was 100s.

09:03:20 20 Q. Not only this money but the money you talked about earlier

09:03:22 21 for the horse purchases, where did that money come from?

09:03:25 22 A. From drugs.

09:03:29 23 MR. WOMACK: Objection, your Honor. Foundation.

09:03:34 24 Q. (BY MR. GARDNER) Do you know where that money came from?

09:03:35 25 A. Right.

09:03:36 1 Q. And where did that money come from? It's not a trick
09:03:43 2 question. Where did the money that you gave Carlos Nayen and the
09:03:47 3 gentleman for the horse in Oklahoma, where did that money come
09:03:50 4 from?

09:03:50 5 A. From drugs. From -- yeah. From drugs.

09:03:53 6 Q. From sale of cocaine?

09:03:54 7 A. Right. Right.

09:03:56 8 Q. I'm going to show you Government's Exhibit 335C and 335I.

09:04:09 9 Do you recognize 335C, sir?

09:04:11 10 A. Yes, I do.

09:04:12 11 Q. And do you recognize 335I?

09:04:16 12 A. Uh-huh.

09:04:17 13 Q. Did you --

09:04:19 14 A. I delivered --

09:04:20 15 THE COURT: No, no. The question is, do you recognize
09:04:22 16 it?

09:04:23 17 A. Yes, I do, sir.

09:04:25 18 MR. GARDNER: Your Honor, I would offer Government's
09:04:28 19 Exhibit 335C and 335I. One is a certified Texas Department of
09:04:35 20 Public Safety document, and the other one is a certified
09:04:39 21 immigration document.

09:05:12 22 MR. FINN: No objection to the photograph, your Honor.

09:05:14 23 THE COURT: Okay. 335C and 335I are received and
09:05:22 24 admitted.

09:05:25 25 Q. (BY MR. GARDNER) Now, you said you identified this

09:05:46 1 individual. Did you make a delivery of cash to this individual?

09:05:49 2 A. Yes, sir.

09:05:50 3 Q. And where was that, sir?

09:05:52 4 A. Delivered money to him in late June in a Wal-Mart store.

09:05:57 5 THE COURT: Which exhibit is that?

09:05:58 6 MR. GARDNER: That's 335C, your Honor. And I'll -- by

09:06:02 7 agreement of defense counsel, I'll re-sticker that later on.

09:06:06 8 Could you show me 335I?

09:06:15 9 Q. (BY MR. GARDNER) And that's the other picture you

09:06:17 10 identified, sir. How do you know him?

09:06:19 11 A. They were both together when I turned in the money to him on

09:06:24 12 Lake June Road.

09:06:26 13 Q. When you say Lake June Road, is that in the Dallas, Texas?

09:06:30 14 A. That's in Dallas, Texas, right by 635, there's a Wal-Mart

09:06:33 15 right there. We met at the parking lot.

09:06:35 16 Q. Parking lot of Wal-Mart?

09:06:37 17 A. Uh-huh.

09:06:37 18 Q. Do you know the subdivision or the community where that

09:06:41 19 Wal-Mart is?

09:06:44 20 A. Just on Lake June Road.

09:06:47 21 Q. And who told you to deliver money to those two?

09:06:51 22 A. My son told me to take the money to him.

09:06:53 23 Q. And how much money did you take to them?

09:06:55 24 A. That, I don't know, sir.

09:06:57 25 Q. And did your son tell you what the money was for?

09:07:01 1 A. No.

09:07:02 2 MR. FINN: Objection. Hearsay, your Honor.

09:07:05 3 MR. GARDNER: That would be a coconspirator hearsay

09:07:06 4 exception, your Honor.

09:07:07 5 MR. FINN: It's still --

09:07:09 6 THE COURT: Put a date on it.

09:07:10 7 Q. (BY MR. GARDNER) Could you let the jury know when the

09:07:13 8 approximate time was you delivered the money to these two

09:07:16 9 individuals?

09:07:18 10 A. I can't remember the exact date when I delivered the money,

09:07:21 11 but it was in the -- one evening, about 4:30, 5:00 in the

09:07:28 12 evening.

09:07:28 13 Q. How many years ago?

09:07:30 14 A. Same, around three-and-a-half years ago, somewhere in there.

09:07:36 15 Q. And at that point, did your son tell you who you were going

09:07:41 16 to be delivering the money to?

09:07:42 17 MR. FINN: Judge, objection. Hearsay.

09:07:44 18 THE COURT: Well, it's not. It's an exception to the

09:07:46 19 hearsay, allegation of conspiracy since 2008. You may answer the

09:07:53 20 question.

09:07:55 21 A. Repeat me the question.

09:07:57 22 Q. (BY MR. GARDNER) Yes, sir. Absolutely. Did your son tell

09:07:59 23 you who you would be giving the money to?

09:08:02 24 A. He just told me to take the money. He didn't tell me

09:08:07 25 exactly. He said it's going to be someone right there. Just

09:08:10 1 turn it over to him. That's it.

09:08:11 2 Q. So he didn't tell you --

09:08:12 3 A. He didn't tell me nothing at that point.

09:08:14 4 Q. And when you got there, was -- could I have the first one,

09:08:19 5 335C? Was that individual on the one you just saw on the screen,

09:08:26 6 were they driving together?

09:08:28 7 A. They weren't together in the same vehicle. They were -- one

09:08:31 8 was driving one vehicle and the other one was driving the other

09:08:35 9 vehicle.

09:08:35 10 Q. And what type of vehicles were they driving?

09:08:38 11 A. I don't remember which one, but the one was driving a white

09:08:41 12 van, like a work van, and the other one was driving like a Ford

09:08:45 13 truck.

09:08:46 14 Q. Who did you give the money to?

09:08:48 15 A. The guy in the white van.

09:08:50 16 Q. And was it this --

09:08:52 17 A. Actually, both of them walked up to me and take the money.

09:08:55 18 Q. And how quick did that transaction occur?

09:08:58 19 A. Minutes.

09:08:59 20 Q. Minutes?

09:09:00 21 A. Minutes.

09:09:00 22 Q. Did you have any conversation with him?

09:09:02 23 A. Not at all. Just switch the money, they looked at me,

09:09:06 24 turned around and go about their business.

09:09:07 25 Q. And did you look in the bag to see approximately how much

09:09:10 1 money you gave them?

09:09:11 2 A. I didn't have no -- I didn't do that because that's not what

09:09:15 3 I was told to do. Just gave me the bag, told me to take it,

09:09:18 4 that's what I did.

09:09:19 5 Q. And did you know what that money was going to be used for?

09:09:22 6 A. Not exactly, sir. I didn't know what that money was going

09:09:26 7 to be used for.

09:09:27 8 Q. Why did you get involved with your son in his cocaine

09:09:31 9 business?

09:09:36 10 A. First of all, this --

09:09:39 11 MR. FINN: Judge, excuse me, Mr. Gardner, I'm going to

09:09:41 12 object. Relevance.

09:09:46 13 MR. GARDNER: I think it's relative to his involvement

09:09:49 14 in the conspiracy, your Honor.

09:09:52 15 THE COURT: Overrule the objection. You may answer,

09:09:54 16 sir.

09:09:57 17 A. Because at the time I was doing brickwork. I was doing a

09:10:01 18 big job and I had a place over in east Dallas and had some four

09:10:10 19 people that came out there to kill my son. So I told him, I

09:10:14 20 stood beside my son for helping him not to get killed just to be

09:10:17 21 around him. That's how I got involved in that thing but just to

09:10:23 22 trying to help my son. That is all.

09:10:25 23 Q. (BY MR. GARDNER) Is that because he is your family?

09:10:27 24 A. That is my son. Yes. I think anybody would do the same for

09:10:30 25 your son.

09:10:31 1 Q. Your Honor, I'll pass the witness.

09:10:38 2 CROSS-EXAMINATION

09:10:38 3 BY MR. FINN:

09:10:44 4 Q. Good morning, Mr. Vasquez. How are you doing?

09:10:46 5 A. Just fine, sir. Thank you.

09:10:47 6 Q. Good. My name is David Finn, F-I-N-N, and I just have a

09:10:51 7 couple of questions for you.

09:10:52 8 You've been indicted in federal court for conspiracy;

09:10:58 9 is that right?

09:10:59 10 A. Yes, sir.

09:10:59 11 Q. And your case is pending in front of Judge Marcia Crone in

09:11:04 12 Eastern District of Texas; is that correct?

09:11:05 13 A. Right.

09:11:06 14 Q. Have you entered a plea on that?

09:11:10 15 A. Yes.

09:11:11 16 Q. Okay. And are you -- do you have a lawyer?

09:11:14 17 A. Yes, I do, sir.

09:11:16 18 Q. Who is your lawyer?

09:11:18 19 A. Frank Perez.

09:11:20 20 Q. Frank Perez?

09:11:21 21 A. Frank Perez.

09:11:23 22 Q. The same lawyer that's representing your son?

09:11:24 23 A. Right, sir.

09:11:27 24 Q. Are you hoping that Judge Crone and the government will file

09:11:33 25 a motion asking the Judge to reduce your sentence based on your

09:11:39 1 cooperation?

09:11:40 2 A. No, sir. I don't expect that. I expect to God that

09:11:45 3 whatever's got to be done has got to be done. I made a mistake

09:11:48 4 in my life. I don't expect that. I mean, God knows only what he

09:11:53 5 can -- whatever I'm going to get is just fine. I made a mistake.

09:11:58 6 Q. Instead of me asking you what you expect, what do you want?

09:12:02 7 A. What I want and I pray to God to get over this matter that I

09:12:07 8 made a mistake in my life and never been in this problem before.

09:12:10 9 Q. So if the Judge is going to sentence you to ten years or

09:12:15 10 five years, which would you prefer?

09:12:19 11 A. Well, naturally, I mean, from ten to five, I take the five.

09:12:23 12 But they tell me ten, I've got to do ten. I mean, that's

09:12:26 13 whatever they decide. It's not up to me.

09:12:27 14 Q. Right.

09:12:28 15 A. I mean, federal.

09:12:30 16 Q. Have you -- I'm not going to ask you what you've talked to

09:12:33 17 Mr. Perez, your attorney, about because that would be

09:12:36 18 inappropriate, but have you done what's called a presentence

09:12:40 19 report? Have you sort of seen what amount of time you're looking

09:12:44 20 at?

09:12:44 21 A. No, sir. No, sir.

09:12:47 22 Q. But Mr. Perez has explained to you that if you assist the

09:12:53 23 government, then the government can file a motion asking Judge

09:12:57 24 Crone to give you less time, right? Do you understand how it

09:13:01 25 works?

09:13:02 1 A. No. We haven't talked about that, that matter. No, sir.

09:13:07 2 Q. So you're here today in front of this jury out of the

09:13:11 3 goodness of your heart, just to clarify and tell the truth?

09:13:14 4 MR. GARDNER: Your Honor, we object to that as being

09:13:15 5 argumentative.

09:13:16 6 THE COURT: It is. I sustain the objection to the

09:13:18 7 question asked. You can rephrase.

09:13:20 8 MR. FINN: Thank you, your Honor.

09:13:21 9 Q. (BY MR. FINN) Mr. Vasquez, were you involved in your son's

09:13:24 10 gun-running, sending machine guns down to Mexico?

09:13:27 11 A. No, sir. Never.

09:13:28 12 Q. He concealed that from you; is that correct?

09:13:30 13 A. Right. Conceal means?

09:13:33 14 Q. Conceal means like hide. He didn't tell you, you didn't

09:13:38 15 know that he was selling machine guns to Mexico, right?

09:13:40 16 A. No. No, sir.

09:13:41 17 Q. Is it safe to say that your son did a whole bunch of stuff

09:13:45 18 that you probably were not aware of?

09:13:48 19 A. Yes, sir. Most.

09:13:50 20 Q. Thank you.

09:13:51 21 A. Yes, sir.

09:13:51 22 Q. Thank you.

09:13:55 23 MR. DEGEURIN: Your Honor, I have a few questions.

09:13:56 24 THE COURT: Yes, sir.

09:13:57 25

CROSS-EXAMINATION

09:13:57 1 BY MR. DEGEURIN:

09:13:58 2 Q. Mr. Vasquez.

09:14:02 3 A. Yes, sir.

09:14:04 4 Q. I'm Mike DeGeurin. We have not met, have we?

09:14:19 5 A. No, sir.

09:14:22 6 Q. You identified a photograph that has been identified as

09:14:28 7 Carlos Nayen.

09:14:31 8 A. Yes, sir.

09:14:31 9 Q. Did you meet him?

09:14:33 10 A. I met him in person. Yes, sir.

09:14:35 11 Q. You met him in person?

09:14:36 12 A. Yes, sir.

09:14:37 13 Q. And did you meet him in person that day that you took the

09:14:41 14 money over? Is that --

09:14:42 15 A. That is the only time I met -- I have seen that person when

09:14:45 16 I took the money to him.

09:14:46 17 Q. Okay. Tell me what day that was.

09:14:55 18 A. Best of my knowledge, it was on a Friday. Friday evening.

09:15:02 19 But I don't know which -- what day. I mean, the date. I don't

09:15:06 20 know the date.

09:15:07 21 Q. How about the year? Do you remember the year?

09:15:15 22 A. It was 2008, 2009, somewhere in there. 2009, somewhere in

09:15:20 23 there.

09:15:20 24 Q. Sometime between 2008, 2009?

09:15:23 1 A. Right. I can't remember that exactly.

09:15:27 2 Q. And how -- if you were, how would you determine what date it

09:15:34 3 was? Is there anything you could go look at to determine when

09:15:40 4 you gave the money to who you believed to be the?

09:15:44 5 A. Well, based on my time that I had been in Mexico and came

09:15:51 6 back, I say at least three, three years, about eight or nine

09:15:57 7 months. So if you take that time back, that's when I seen Mr.

09:16:00 8 Payen.

09:16:00 9 Q. That would be the way you would figure it out?

09:16:03 10 A. That would be the way I would figure that out. Yes, sir.

09:16:06 11 Q. When did you come back?

09:16:07 12 A. About a month ago. No. I take that back. I'm sorry. I

09:16:11 13 apologize for that. When I come back to Dallas, it's been close

09:16:13 14 to two months.

09:16:16 15 Q. From today?

09:16:18 16 A. From today.

09:16:19 17 Q. Okay. Two months ago?

09:16:20 18 A. Two months ago.

09:16:21 19 Q. Okay.

09:16:22 20 A. I came back to Dallas.

09:16:29 21 Q. When you delivered -- your recollection is sometime around

09:16:35 22 2008, 2009, on a Friday, you delivered a package of money to a

09:16:42 23 person. Were you told his name? Were you introduced to him?

09:16:46 24 How did you know who to give it to?

09:16:49 25 A. My son, he told me I was going to deliver the money to a

09:16:56 1 certain person. When I delivered the money, that guy introduced
09:17:00 2 himself to me, Carlos Payen. And I didn't -- I don't remember
09:17:04 3 the name of the other person he was with.

09:17:07 4 Q. My hearing is not as good as it used to be. Did you say
09:17:14 5 Payen or Nayen? Or what did you say his name was?

09:17:16 6 A. I said Payen or Nayen. Either one of those. But I mean, I
09:17:21 7 remember clearly the person because we stood right there outside
09:17:24 8 the hotel, the motel, whatever.

09:17:26 9 Q. Okay. Did I understand you to say that you -- it was your
09:17:33 10 understanding this was having to do with buying some horse?

09:17:35 11 A. That's what I understood what the money was going to be used
09:17:38 12 for.

09:17:39 13 Q. To buy some horse?

09:17:40 14 A. Some horses. Some horses. Not horse. Horses.

09:17:43 15 Q. To buy some horses?

09:17:45 16 A. Uh-huh.

09:17:45 17 Q. And who told you that?

09:17:46 18 A. My son did.

09:17:50 19 Q. Okay. So your son told you, take this money to a person and
09:17:59 20 the reason, the idea is because this -- that person or somebody
09:18:05 21 he works for is going to buy some horses?

09:18:07 22 A. Yes, sir.

09:18:09 23 Q. Is that the best recollection?

09:18:10 24 A. Best of my knowledge, that's what I was told.

09:18:13 25 Q. Okay.

09:18:14 1 A. They needed the money to fly in a plane to go buy some
09:18:17 2 horses somewhere. Just like that.

09:18:19 3 Q. All right. Are you familiar with horse racing, or horse
09:18:24 4 breeding, or anything like that?

09:18:25 5 A. Nothing at all, sir.

09:18:26 6 Q. Did -- you don't have -- anybody tell you what the names of
09:18:32 7 the horses were that were going to be purchased?

09:18:35 8 A. No, sir.

09:18:36 9 Q. Or how about who was going to purchase them?

09:18:39 10 A. No, sir.

09:18:45 11 Q. A second -- how many times did you deliver money? How many
09:18:49 12 times did you deliver money?

09:18:51 13 A. To him or to different persons?

09:18:54 14 Q. Well, my notes -- and I have to apologize. I had to rush
09:18:59 15 out and come back in. But you've identified two different people
09:19:02 16 that you delivered money to.

09:19:04 17 A. Four different people.

09:19:06 18 Q. Okay. So you're talking about four different occasions.

09:19:10 19 A. Right.

09:19:11 20 Q. One of those occasions was to buy horses?

09:19:14 21 A. Right. Well, it was two occasions to buy horses. The one
09:19:19 22 in Oklahoma and that person right there.

09:19:22 23 Q. Okay. Is it Carlos was one and some other --

09:19:28 24 A. I don't remember the other. The other person they sent me
09:19:31 25 to give the money in Oklahoma that was for horses they were

09:19:35 1 buying. I don't remember the name of this person.

09:19:36 2 Q. Okay. So am I correct that on one occasion, you knew that

09:19:42 3 money was to buy horses. On the other occasions, you weren't

09:19:46 4 sure how much money or what it was for?

09:19:48 5 A. Right.

09:19:50 6 Q. Is that correct?

09:19:51 7 A. Yes, sir. That's the person that you asked me right there,

09:19:55 8 that the one on Lake June in Dallas that I don't know what the

09:19:59 9 money was used for right there. I just delivered.

09:20:03 10 Q. That was not Carlos Nayen or was it Carlos?

09:20:05 11 A. No. That was not Carlos Nayen.

09:20:08 12 Q. Somebody else?

09:20:08 13 A. Somebody else. Yes, sir.

09:20:09 14 Q. So when you said that person right there, you weren't

09:20:13 15 talking about Carlos Nayen?

09:20:15 16 A. No, sir.

09:20:19 17 Q. And I think -- did I ask you whether or not you knew what

09:20:23 18 type of horses or when the horses were going to be involved?

09:20:27 19 A. I don't have no idea, sir.

09:20:33 20 Q. Is that the extent of your knowledge with regard to any of

09:20:37 21 that money being used for purchasing horses? Is that all that

09:20:42 22 you know?

09:20:44 23 A. That's to my recall. Yes, sir.

09:20:47 24 Q. Your Honor, I pass the witness.

09:20:50 25 THE COURT: Mr. Womack.

09:20:51 1 MR. WOMACK: Thank you, your Honor.

09:20:53 2 CROSS-EXAMINATION

09:20:54 3 BY MR. WOMACK:

09:20:54 4 Q. Good morning, Mr. Vasquez.

09:20:55 5 A. Good morning, sir.

09:20:56 6 Q. I'm Guy Womack and we've never met before, have we?

09:20:59 7 A. No, sir.

09:20:59 8 Q. Sir, when you made your last trip to the United States, you

09:21:05 9 told us that you flew from Veracruz?

09:21:07 10 A. I flew exactly from la capital de Mexico. The capital of

09:21:14 11 Mexico. Capitol.

09:21:14 12 Q. Is that near Veracruz?

09:21:17 13 A. Actually, no. I drove the -- because from where I was, no

09:21:22 14 plane to the capitol of Mexico, so I drove -- rode a bus to the

09:21:29 15 capitol of Mexico.

09:21:30 16 Q. But to come into the United States, you flew on an airplane?

09:21:33 17 A. Yes, sir.

09:21:33 18 Q. And what city did you fly to and first land in in the U.S.?

09:21:39 19 A. DFW.

09:21:41 20 Q. Okay. So Dallas-Fort Worth?

09:21:42 21 A. Dallas-Fort Worth Airport.

09:21:44 22 Q. Before you went to the airport that day to start your flight

09:21:47 23 to the DFW, did you call the United States government and say,

09:21:50 24 this is me, I'm coming back to America?

09:21:55 25 A. No, sir.

09:21:57 1 Q. Did you -- when you got to the airport and you checked in,
09:22:01 2 did you tell the airline, I'm Jose Vasquez, Sr. I'm flying to
09:22:06 3 America, please call them and tell them I'm coming? Did you do
09:22:09 4 that?

09:22:11 5 A. No, sir. I didn't do that.

09:22:12 6 Q. So you boarded the airplane and you flew to DFW, and when
09:22:17 7 you got off of the plane in DFW, when did you first encounter law
09:22:27 8 enforcement? Did they meet you at the plane?

09:22:29 9 A. When I got to the Dallas-Fort Worth Airport, I had United
09:22:34 10 States marshals meet me right there and the district attorney.

09:22:39 11 Q. Okay. And did you know they were going to be there waiting
09:22:42 12 on you?

09:22:42 13 A. Yes, I did, sir.

09:22:43 14 Q. How did you know the marshals were going to be there?

09:22:45 15 A. I didn't know who was there really, in reality. I knew they
09:22:49 16 had some -- the law was going to be right there to pick me up.

09:22:51 17 Q. And you know that's because they saw your name on a
09:22:54 18 passenger list?

09:22:54 19 A. No, sir. Because my son was talking to the attorney, to
09:22:58 20 Frank Perez, and he had told me they had spoke the attorney for
09:23:02 21 me to come in, turn myself in and instead of me running because I
09:23:09 22 was tired of being in Mexico because there's no life in Mexico.
09:23:11 23 So I was tired being in Mexico. I wanted to come back to the
09:23:15 24 United States. So when I came back in, then my son told me when
09:23:17 25 I come in, he didn't know how much I'm going to do, but it's

09:23:22 1 better than being in Mexico. They're starving to death over
09:23:24 2 there. Just to come in and face what I had to face. And I
09:23:28 3 turned myself in and that's exactly what I did.

09:23:31 4 Q. So at that time when you flew back to America for the last
09:23:34 5 time, were you talking to this Mr. Perez, Frank Perez, the
09:23:40 6 attorney?

09:23:40 7 A. No. I was talking to my son. I never talked to Mr. Perez.

09:23:43 8 Q. And you later had Mr. Perez represent you and your son in
09:23:49 9 your federal criminal case?

09:23:50 10 A. I didn't -- my son was already being represented by Frank
09:23:56 11 Perez.

09:23:57 12 Q. And you had the same lawyer?

09:23:58 13 A. Right.

09:23:59 14 Q. Okay. And both of your cases are pending right now in that
09:24:03 15 same court; is that right?

09:24:08 16 A. No. My son has been sentenced already. He's in jail.

09:24:10 17 Q. Okay. Did he plead guilty in his case before you did, or
09:24:15 18 was it at the same general time?

09:24:18 19 A. I don't have no -- I don't have no idea right there, sir. I
09:24:21 20 understand. I know he's in prison right now. I don't know his
09:24:25 21 case -- how his case went.

09:24:27 22 Q. Okay. Now, when you hired Mr. Perez and you got ready to go
09:24:34 23 to court for yourself there, you were actually in Sherman, Texas,
09:24:38 24 wasn't it, that you went to court?

09:24:39 25 A. No, sir.

09:24:41 1 Q. Where is the court at?

09:24:43 2 A. On Preston in Plano, Plano, Texas.

09:24:47 3 Q. Okay. Because all the documents say in the U.S. District

09:24:50 4 Court in Sherman. But you think it was actually in Plano?

09:24:53 5 A. Well, I mean, if that's what considered right there Sherman,

09:24:57 6 I'm not sure what's considered right there. But I'm familiar

09:24:59 7 with the area where I went to court.

09:25:01 8 Q. Okay. So you went -- when you went to that court, do you

09:25:04 9 recall the date that you pled guilty?

09:25:07 10 A. Repeat that again.

09:25:09 11 Q. Do you remember standing in front of a federal judge and

09:25:12 12 pleading guilty?

09:25:12 13 A. Yes, sir.

09:25:14 14 Q. Before you entered the plea of guilty, do you recall that

09:25:17 15 Judge Marcia Crone, the Judge went over with you a document

09:25:22 16 called a plea agreement?

09:25:25 17 A. Yes, sir.

09:25:26 18 Q. And she had your lawyer explain or the government explain

09:25:33 19 the general terms of that plea agreement?

09:25:35 20 A. Right.

09:25:35 21 Q. And the Judge asked you questions about that plea agreement?

09:25:38 22 A. Yes, sir.

09:25:39 23 Q. Do you recall that paragraph 9 or a paragraph in your plea

09:25:44 24 agreement dealt specifically with you getting a reduced sentence

09:25:49 25 for cooperation with the government? Do you remember that?

09:25:51 1 A. I did. I don't remember it, sir. No, sir. You say that I
09:25:57 2 got a document for that?

09:25:58 3 Q. Yeah. That plea agreement. Do you remember that you had a
09:26:00 4 written plea agreement that you signed before your guilty plea?

09:26:05 5 Do you remember that?

09:26:05 6 A. I remember signing a paper. Yes, sir.

09:26:07 7 Q. And it was signed by your lawyer and by the government's
09:26:11 8 lawyer, wasn't it?

09:26:15 9 A. I believe so.

09:26:17 10 Q. And before the Judge would accept your guilty plea, she went
09:26:22 11 over with you the terms of that plea agreement, didn't she?

09:26:27 12 A. I don't recall that, sir. I'm sorry.

09:26:31 13 MR. WOMACK: Your Honor, on Friday, the government gave
09:26:33 14 us five discs with discovery. One has his plea agreement. It's
09:26:37 15 on a computer. I think I can hook it up to this, but I don't
09:26:40 16 know how. If I can get someone to assist. If I could have just
09:27:07 17 one second. I'm sorry.

09:27:08 18 THE COURT: Yes, sir.

09:27:26 19 Q. (BY MR. WOMACK) Mr. Vasquez, you haven't even pled guilty
09:27:28 20 yet, have you?

09:27:28 21 A. Sir.

09:27:29 22 Q. You haven't pled guilty yet, have you?

09:27:31 23 A. I haven't pled guilty.

09:27:34 24 Q. We're trying to determine that. You've not actually gone in
09:27:37 25 front of a judge and pled guilty, have you?

09:27:44 1 A. They --

09:27:45 2 MR. GARDNER: Your Honor, may I approach?

09:27:46 3 A. I don't understand the -- right.

09:27:51 4 (At the bench, on the record.)

09:28:02 5 MR. GARDNER: I spoke with the prosecutor up there last

09:28:04 6 week, Ernest Gonzalez, and he represented to me that Mr. Vasquez,

09:28:08 7 Sr. has not signed a plea agreement, he has not entered a plea of

09:28:13 8 guilty. I think he's a little confused over his initial

09:28:15 9 appearance or his bond hearing. But that was represented to me.

09:28:17 10 I have no plea agreement on him. He is under indictment up there

09:28:22 11 for the conspiracy, the ten-to-life conspiracy. But I have no --

09:28:26 12 he hadn't even signed a proffer letter with any prosecutor up

09:28:29 13 there.

09:28:31 14 MR. MAYR: Then why is this guy being asked questions

09:28:33 15 without an attorney being present and implicating himself in

09:28:36 16 possible criminal activity if he --

09:28:36 17 MR. WOMACK: He has no deal.

09:28:38 18 MR. MAYR: -- yeah, with no deal? I mean, this is --

09:28:42 19 MR. GARDNER: This is pretty credible.

09:28:46 20 MR. DEGEURIN: Sua sponte, I think, the Judge. We

09:28:48 21 don't have --

09:28:50 22 MR. GARDNER: It is Frank Perez.

09:28:52 23 MR. WOMACK: Have you made any assurances to him?

09:28:54 24 MR. GARDNER: My only assurance to him is that I won't

09:28:55 25 use his testimony against him.

09:28:57 1 MR. WOMACK: So you have told him that.

09:28:59 2 MR. GARDNER: Yeah. There's be no proffer letters.

09:29:02 3 MR. WOMACK: But you've given him a grant of use

09:29:04 4 immunity?

09:29:04 5 MR. GARDNER: Yeah. I have the authority.

09:29:04 6 MR. WOMACK: Did you get that from the government?

09:29:05 7 MR. GARDNER: I have the authority myself to do that

09:29:06 8 here. Use immunity.

09:29:09 9 MS. FERNALD: The testimony here.

09:29:10 10 MR. GARDNER: I have the authority to give a proffer

09:29:11 11 letter for his testimony here in the Western District of Texas.

09:29:15 12 And it's a verbal proffer. His issues in the Eastern District

09:29:20 13 are not my issues.

09:29:24 14 MR. ESPER: Doug, for the record, you've represented to

09:29:25 15 me and other counsel that you have no Jencks material.

09:29:27 16 MR. GARDNER: That is correct. It's been represented

09:29:28 17 to me by Ernest Gonzalez that I have no Jencks material.

09:29:31 18 THE COURT: Okay. Now, let me ask you this. As I

09:29:32 19 understand it, then the proffer letter was proffered that he

09:29:35 20 could give the testimony but wouldn't be indicted in this case?

09:29:39 21 MR. GARDNER: That's correct, your Honor.

09:29:40 22 THE COURT: Okay. And the Dallas case then is still a

09:29:43 23 separate, although none of us understand how the same lawyer is

09:29:49 24 representing both. All right.

09:29:52 25 MR. WOMACK: Do we have a copy of the proffer letter?

09:29:54 1 MR. GARDNER: I have no proffer letter. Whether or
09:29:56 2 not --

09:29:56 3 MR. WOMACK: You said you gave him one.

09:29:58 4 MR. GARDNER: A verbal proffer letter. Whether Eastern
09:30:02 5 District gave him one, I don't know.

09:30:05 6 MR. ESPER: Of course, the verbal proffer letter that
09:30:07 7 you give him indicated that he could only be prosecuted if he
09:30:10 8 gave a false statement or perjury.

09:30:12 9 MR. GARDNER: That's correct. Standard stuff like
09:30:13 10 that.

09:30:14 11 MR. MAYR: So just for purposes --

09:30:15 12 THE COURT: So why don't I recess the jury and y'all go
09:30:20 13 over a stipulation that says that.

09:30:21 14 MR. WOMACK: Yes, your Honor.

09:30:23 15 THE COURT: And we can bypass the rest of this. Okay.

09:30:28 16 MR. WOMACK: Yes, sir. That would be good. Thank you.

09:30:31 17 THE COURT: I'm going to let you get your exercise.
09:30:34 18 You'll have time to use the facilities and everything. Let's try
09:30:38 19 to be back in about 15 minutes, please. Remember my
09:30:45 20 instructions.

09:31:12 21 (Jury not present.)

09:31:27 22 MR. WOMACK: Your Honor, normally we wouldn't approach
09:31:29 23 a witness who's on cross, but the government has asked that we
09:31:32 24 could all approach and just for the purposes of working up a
09:31:35 25 stipulation, we won't be asking any other questions. We'd just

09:31:38 1 like to flesh out how our stipulation will be worded.

09:31:42 2 THE COURT: Well, I want the stipulation in writing.

09:31:44 3 MR. WOMACK: Oh, yes, sir.

09:31:45 4 THE COURT: And then, we can read it to the jury and

09:31:48 5 then, we can -- you can type it up and place it in evidence if

09:31:54 6 you wish. But the main thing is that you agree to it in writing.

09:31:58 7 But I'm not sure. You mean you want to ask followup questions

09:32:02 8 right now?

09:32:03 9 MR. WOMACK: No, sir. We wanted to just talk to him

09:32:04 10 and get some specifics to make sure we had everything right in a

09:32:09 11 stipulation.

09:32:11 12 THE COURT: I think we ought to do it on the record.

09:32:13 13 I'm not one that does things off the record.

09:32:16 14 MR. WOMACK: Yes, sir.

09:32:16 15 THE COURT: Okay. You may be seated.

09:32:25 16 MR. WOMACK: Your Honor, maybe asking any other

09:32:27 17 questions right now -- well, probably wouldn't help to ask

09:32:30 18 anything right now, unless the government has questions. Perhaps

09:32:33 19 they can draft this since they know what was said.

09:32:36 20 THE COURT: Okay. Well, Mr. Vasquez will stay handy.

09:32:42 21 Y'all do your talking, see if you can draw up a stipulation, and

09:32:44 22 then, you can confirm it with other questions with Mr. Vasquez.

09:32:48 23 Mr. Vasquez, they may ask you some more questions, but

09:32:51 24 I'm going to allow you to go outside now. Don't go far.

09:32:56 25 THE WITNESS: No. I'd like to go to the restroom.

09:32:58 1 THE COURT: Okay. Well, you could go that far.

09:33:01 2 THE WITNESS: Okay, sir.

09:33:02 3 THE COURT: But then, they'll come get you when they're

09:33:04 4 ready.

09:33:04 5 THE WITNESS: Thank you, sir.

09:33:05 6 THE COURT: And don't talk to anybody, sir.

09:33:07 7 THE WITNESS: No problem.

09:33:11 8 THE COURT: Tell me when you're ready, please, counsel.

09:33:13 9 (Recess.)

09:50:57 10 THE COURT: All right, counsel. Where are we?

09:51:00 11 MR. GARDNER: Your Honor, we've written out an

09:51:01 12 agreement. All counsel have had a chance to look at it. I think

09:51:03 13 we're in agreement. We're prepared to read it to the jury and

09:51:06 14 then, type it up and submit it later.

09:51:08 15 THE COURT: Why don't you do me a dry run?

09:51:11 16 MR. GARDNER: Yes, sir.

09:51:14 17 MR. FINN: I think you'll like it, your Honor.

09:51:16 18 THE COURT: You may be seated in the courtroom.

09:51:18 19 MR. GARDNER: May I proceed, sir?

09:51:20 20 THE COURT: I didn't hear.

09:51:25 21 MR. FINN: I said I think you'll like it.

09:51:26 22 THE COURT: I don't care if I like it or not. I just

09:51:29 23 want to get rid of this witness. Let's go.

09:51:30 24 MR. GARDNER: Your Honor, it is stipulated to by all

09:51:32 25 parties that Mr. Jose Luis Vasquez, Sr. has been indicted in the

09:51:36 1 Eastern District of Texas for conspiracy to distribute five
09:51:39 2 kilograms or more of cocaine, which carries a penalty of ten
09:51:44 3 years up to and including life in prison. He is currently
09:51:47 4 released on pretrial supervised release, and his charges remain
09:51:51 5 pending, and he has not entered a plea. He is represented by
09:51:54 6 defense counsel named Frank Perez. He is testifying under a
09:51:58 7 grant of immunity such that nothing he says can be used against
09:52:01 8 him in either the Western District of Texas or the Eastern
09:52:03 9 District of Texas. Also in exchange for his cooperation he will
09:52:06 10 face no charges in the Western District of Texas to the extent he
09:52:09 11 was involved in the Western District of Texas.

09:52:11 12 THE COURT: Okay. So counsel have any more questions
09:52:18 13 of the witness?

09:52:19 14 MR. WOMACK: I have just two questions, your Honor.

09:52:21 15 THE COURT: Because I'm concerned -- the jury's going
09:52:25 16 to get this information, but I'm concerned that Mr. Vasquez may
09:52:28 17 not understand it.

09:52:29 18 MR. WOMACK: I won't ask him anything about this.

09:52:31 19 THE COURT: Okay.

09:52:32 20 MR. WOMACK: We'd offer this as a stipulation of fact.
09:52:34 21 I guess a defense exhibit, however you want to do it, sir.

09:52:38 22 THE COURT: Well, a stipulation is a stipulation of all
09:52:41 23 parties. It would be stipulation No. 1.

09:52:43 24 MR. ESPER: I have a couple of questions, but it will
09:52:45 25 not deal with his charges or his arrest.

09:52:48 1 MR. WOMACK: And my questions have nothing to do with
09:52:50 2 his plea.

09:52:51 3 MR. MAYR: Judge, I am going to have some questions of
09:52:54 4 him regarding some of the factual basis involved -- regarding his
09:52:58 5 involvement. But I will try to be as expeditious as possible.

09:53:02 6 THE COURT: Well, I'm not limiting you. I'm just --
09:53:06 7 the only thing that I'm concerned about is I'm not so sure Mr.
09:53:11 8 Vasquez understands his legal position right now. Okay. I mean,
09:53:20 9 I know he doesn't. We all know he doesn't.

09:53:23 10 MR. WOMACK: We've established that, sir.

09:53:27 11 MR. DEGEURIN: Your Honor.

09:53:28 12 THE COURT: Yes, sir.

09:53:28 13 MR. DEGEURIN: I think I'm trying to get my arms around
09:53:30 14 the situation of being represented by the -- believing he's being
09:53:34 15 represented by the same lawyer as his son.

09:53:38 16 THE COURT: And the other side of it is, is he being
09:53:42 17 represented at all? And I understand that. But I don't think
09:53:47 18 there's anything we can do that right now.

09:53:50 19 MR. DEGEURIN: Well, the thing is I don't want to be
09:53:52 20 remiss. I have not briefed it. I don't know if under these
09:53:55 21 circumstances you have some sua sponte duty to ensure that
09:54:01 22 he's --

09:54:02 23 THE COURT: I do generally and sometimes I'll stop the
09:54:04 24 proceedings and have one. But I don't know how you could have
09:54:07 25 anything better than have transaction on immunity in two

09:54:12 1 different districts. He's doing very, very well without a
09:54:18 2 lawyer.

09:54:18 3 All right. Let's bring him back.

09:54:20 4 MR. MAYR: Judge, briefly, let me go ahead and just get
09:54:22 5 this since we're out. And I'd rather do this now than do it in
09:54:25 6 front of the jury.

09:54:26 7 Some of my questions are going to go beyond the
09:54:28 8 criminal case and into his immigration status. This is what I
09:54:32 9 mean that I'm going to ask him about. He's charged with -- my
09:54:38 10 understanding from the stipulation, he's charged with conspiracy
09:54:40 11 with intent to deliver five kilos or more. That's an aggravated
09:54:44 12 felony.

09:54:44 13 He's already testified he's a lawful permanent
09:54:47 14 resident; therefore, he should be subject to immediate detention
09:54:51 15 by ICE officials and not entitled to an immigration mark, and
09:54:55 16 yet, he's out here. And so, I need to ask him some questions
09:55:00 17 about that. I will -- if I see that he doesn't understand that,
09:55:03 18 I will move on. But I do want to ask him those questions to
09:55:06 19 explore that topic with him. I just -- I don't want to surprise
09:55:10 20 the Court when we're representing to the Court --

09:55:13 21 THE COURT: You're not going to surprise the Court.
09:55:15 22 But you're just opening it to a museum because, first off, nobody
09:55:18 23 could ever anticipate what the immigration courts are going to
09:55:22 24 do.

09:55:22 25 MR. MAYR: Well --

09:55:22 1 THE COURT: But if I had to guess right now, they're
09:55:24 2 not going to deport this fella, whatever -- whenever he gets out
09:55:29 3 of the penitentiary. I think -- I just see too many that they
09:55:36 4 don't deport that are a lot worse.

09:55:38 5 MR. MAYR: Well, the problem is that if he does plead
09:55:40 6 guilty to what he's charged with, it's an automatic deportable
09:55:44 7 offense.

09:55:44 8 THE COURT: Well, I understand.

09:55:45 9 MR. MAYR: Not subject to --

09:55:48 10 THE COURT: And I would be able to put a Scotch nickle
09:55:50 11 that he's not going to enter into.

09:55:51 12 MR. MAYR: Well, I would like to explore if that's been
09:55:54 13 discussed maybe -- if that's been discussed in any way with him.

09:55:56 14 THE COURT: Well, the only possible person that's
09:55:59 15 discussed it with him is Mr. Perez, who he says is his lawyer.
09:56:02 16 So I would -- I would have to think about that. And if you're
09:56:06 17 going to do that, I'll have to stop these proceedings and get him
09:56:11 18 lawyered up.

09:56:12 19 MR. FINN: Judge, for the record, I know Frank Perez,
09:56:16 20 not real well, but he's actually a pretty good lawyer. So I
09:56:20 21 understand what the witness has said on the stand. And I'm
09:56:24 22 unclear as to whether or not he's actually represented or not,
09:56:27 23 but I just wanted you to have the benefit of that. He actually
09:56:30 24 knows what he's doing.

09:56:31 25 THE COURT: No. I felt a whole lot better when I find

09:56:36 1 out that he's just been to a preliminary after he got off that
09:56:39 2 airplane because I am sure the Judge is going to have counsel for
09:56:44 3 him.

09:56:45 4 MR. GARDNER: And, Judge, just I was present --

09:56:48 5 THE COURT: I don't think the Judge -- I mean, counsel
09:56:51 6 could do any better than to have the immunity from his testimony
09:56:55 7 in both districts.

09:56:58 8 MR. FINN: It's pretty good. Yeah.

09:57:00 9 MR. GARDNER: I was present, your Honor, with Mr.
09:57:02 10 Gonzalez and Mr. Perez's representative when I interviewed Mr.
09:57:04 11 Vasquez, Sr. in Dallas. So he does have representation.

09:57:10 12 MS. FERNALD: Ready, your Honor, with the witness?

09:57:12 13 THE COURT: Yes. Mr. Vasquez, come on back, please,
09:57:25 14 sir.

09:57:51 15 (Jury present.)

09:59:10 16 THE COURT: Mr. Vasquez, you understand you're still
09:59:14 17 under oath, sir, under the penalties of perjury?

09:59:16 18 THE WITNESS: Yes, sir.

09:59:17 19 THE COURT: All right. They're going to ask you some
09:59:19 20 more questions.

09:59:21 21 MR. GARDNER: Would you like me to read the stipulation
09:59:22 22 first?

09:59:23 23 THE COURT: I think probably.

09:59:24 24 Members of the jury, you'll remember I told you that
09:59:27 25 there were several ways, actually three, that evidence can come

09:59:32 1 in. One is a stipulation where all of the parties have agreed
09:59:40 2 that as to facts. And so, he's going to read a stipulation to
09:59:43 3 you that all the parties have agreed are actual facts. And then,
09:59:47 4 you'll also have it in writing as an exhibit when you deliberate.

09:59:53 5 MR. GARDNER: Thank you, your Honor.

09:59:54 6 It is stipulated to by all parties that Mr. Jose Luis
09:59:58 7 Vasquez, Sr. has been indicted in the Eastern District of Texas
10:00:02 8 for conspiracy to distribute five kilograms or more of cocaine,
10:00:06 9 which carries a penalty of ten years up to and including life
10:00:09 10 imprisonment. He is currently released on pretrial supervised
10:00:13 11 release, and his charges remain pending, and he has not entered a
10:00:17 12 plea. He is represented by defense counsel named Frank Perez.
10:00:21 13 He's testifying under a grant of immunity such that nothing he
10:00:24 14 says can be used against him in either the Western District of
10:00:28 15 Texas and the Eastern District of Texas. Also, in exchange for
10:00:31 16 his cooperation, he understands he will face no charges in the
10:00:34 17 Western District of Texas to the extent in which he was involved
10:00:37 18 in the Western District of Texas.

10:00:38 19 Your Honor, this is a stipulation agreed to by all
10:00:41 20 parties.

10:00:43 21 THE COURT: Mr. Finn?

10:00:43 22 MR. FINN: That's correct, your Honor. Agreed.

10:00:46 23 MR. WOMACK: That's correct, your Honor.

10:00:47 24 MR. MAYR: Yes, your Honor.

10:00:48 25 MR. ESPER: So stipulated.

10:00:49 1 MR. MAYR: And from my client, as well.

10:00:51 2 THE COURT: All right. All counsel have agreed. Mr.

10:00:56 3 Womack, you still have the witness.

10:00:59 4 Q. (BY MR. WOMACK) Mr. Vasquez, another thing I want to ask you

10:01:01 5 about. You said that you began working and cooperating in

10:01:05 6 cocaine trafficking because you thought your son would be

10:01:08 7 murdered?

10:01:10 8 A. Yes, sir.

10:01:14 9 Q. Are you aware -- well, at that time when you were helping

10:01:18 10 your son, were you aware that his employers were actually paying

10:01:23 11 him about \$1 million a month to traffic in cocaine?

10:01:28 12 A. No, sir. That I wasn't aware. No, sir.

10:01:33 13 Q. Would it surprise you to learn that during the time that you

10:01:36 14 were helping your son, Jose Vasquez, Jr., that a drug-trafficking

10:01:42 15 organization was paying him \$1 million a month average? Would

10:01:47 16 that surprise you?

10:01:48 17 A. Surprise me because, in reality, I didn't know that, sir.

10:01:51 18 Q. Okay. Thank you. Sir, we have no further questions.

10:01:54 19 THE COURT: Mr. Esper.

10:01:56 20 MR. ESPER: Yes, your Honor.

10:01:57 21 CROSS-EXAMINATION

10:01:58 22 BY MR. ESPER:

10:01:58 23 Q. Mr. Vasquez, in essence, your son did a good job of hiding

10:02:04 24 from you the fact that he was dealing drugs, right?

10:02:08 25 A. Right. I mean, yes, sir.

10:02:10 1 Q. Okay. In other words, he carried on his life like he wasn't
10:02:14 2 making a million dollars a year, did he?

10:02:17 3 A. Well, yes. I mean, I really don't -- I really didn't know
10:02:23 4 that because I was trying to work my business.

10:02:25 5 Q. Sure.

10:02:26 6 A. And I didn't see that in reality.

10:02:28 7 Q. And he hid that from you that he was dealing drugs, correct?

10:02:32 8 A. I didn't know all the story. I knew he was dealing drugs,
10:02:36 9 but I didn't know all the story what he was doing.

10:02:38 10 Q. Okay. That's all I have, your Honor.

10:02:41 11 THE COURT: Mr. Mayr.

10:02:44 12 CROSS-EXAMINATION

10:02:45 13 BY MR. MAYR:

10:02:45 14 Q. Thank you, Judge.

10:02:45 15 Good morning, Mr. Vasquez. My name is Brent Mayr.

10:02:50 16 You've never testified in court before, have you?

10:02:52 17 A. Never have, sir.

10:02:53 18 Q. In fact, this is probably the first time you've ever been
10:02:55 19 involved in any kind of criminal proceedings?

10:02:58 20 A. That's right, sir. Never been in trouble.

10:03:00 21 Q. I need to ask you some important questions.

10:03:03 22 A. Okay.

10:03:03 23 Q. If you don't understand or are unfamiliar with that, I
10:03:07 24 understand. Just let me know. You're not going to get into any
10:03:10 25 trouble for that.

10:03:12 1 I want to first ask you about your immigration status.

10:03:17 2 You testified that you are not a United States citizen; is that

10:03:21 3 correct?

10:03:21 4 A. Right, sir.

10:03:22 5 Q. You are a -- what's called a lawful permanent resident

10:03:26 6 residing within the United States?

10:03:28 7 A. Yes, sir.

10:03:28 8 Q. You go down to Immigration and Custom Enforcement, or ICE is

10:03:35 9 the agency, and there is paperwork that you fill out with them,

10:03:40 10 from time to time, to maintain your legal status here in the

10:03:44 11 United States; is that right?

10:03:44 12 A. The question is, if I got to renew the card every time --

10:03:51 13 every so often? I believe it's every ten years, something like

10:03:55 14 that.

10:03:55 15 Q. Okay. Because that's what a lawful permanent resident has

10:03:59 16 to do?

10:03:59 17 A. Yes, sir.

10:04:00 18 Q. Did you work with an immigration attorney to gain your

10:04:04 19 lawful permanent resident status?

10:04:05 20 A. No, sir. Back in 1980 -- well, back in 1980, my ex-wife,

10:04:14 21 which is my son's mother, applied for -- she's a citizen and she

10:04:19 22 applied to get my papers.

10:04:21 23 Q. So most of your dealings with immigration you're doing on

10:04:27 24 your own and based on information that you receive from ICE; is

10:04:34 25 that right? Let me rephrase the question.

10:04:36 1 In other words, knowing what you need to do to stay
10:04:42 2 legal, you get that information from immigration, right?
10:04:47 3 A. Well, I mean, can I answer the way I know how? I mean, I
10:04:52 4 had to go to the -- certain offices, you've got to go in there.
10:04:56 5 They give you an application to fill out to give you the new
10:05:01 6 card. According to the way you fill it out, if you don't fill it
10:05:04 7 out properly -- you cannot lie on the application because you
10:05:10 8 can't, you can't. You've got to tell the truth.
10:05:12 9 Like right now, in order to go renew my card, by being
10:05:16 10 in this problem, I don't know what's going to happen if they're
10:05:19 11 going to renew it or what they're going to do. I'm not sure.
10:05:21 12 Q. Okay. And that's what I want to talk with you about. When
10:05:25 13 you came back to the United States, you flew into Dallas-Fort
10:05:30 14 Worth Airport and you were met by, you said, U.S. marshals?
10:05:33 15 A. U.S. marshals, U.S. Customs.
10:05:36 16 Q. Okay. U.S. Customs. Did you meet with anyone from
10:05:40 17 immigration?
10:05:48 18 A. No, sir.
10:05:49 19 Q. Did anyone, any of those federal agents, did they discuss
10:05:54 20 with you anything regarding your immigration status being a
10:05:57 21 lawful permanent resident?
10:05:59 22 A. No, sir.
10:06:03 23 Q. Are you aware that as a lawful permanent -- let me back that
10:06:09 24 up.
10:06:09 25 You knew coming back to the United States that you were

10:06:13 1 charged with conspiracy to possess with intent to distribute a
10:06:20 2 controlled substance of five kilograms or more of cocaine. Did
10:06:23 3 you know that you were charged with that -- that was the charge
10:06:26 4 you were facing?

10:06:26 5 A. No, sir. I didn't know that when I came back at the time.

10:06:31 6 When I came back at the time, my attorney went to the jail where

10:06:36 7 I was and explained what I was being charged with.

10:06:38 8 Q. Okay. Was it -- did anyone ever explain to you that based

10:06:49 9 on the criminal charge that you were facing, that aside from

10:06:57 10 being detained for those criminal charges, were you aware that

10:07:01 11 you could be detained by immigration officials because you were

10:07:05 12 charged with an aggravated felony? Were you aware of that from

10:07:09 13 any source of information?

10:07:10 14 A. No, sir.

10:07:15 15 Q. Did they take your -- when you came back in and you were

10:07:23 16 arrested, did they take your residency card from you?

10:07:26 17 A. No, sir.

10:07:29 18 Q. So essentially immigration has done nothing with you,

10:07:33 19 despite the fact that you're charged with this very serious

10:07:39 20 felony offense up in the Northern District of Texas?

10:07:42 21 MR. GARDNER: We object to that. It's speculation as

10:07:44 22 to what immigration does.

10:07:45 23 THE COURT: I don't know anybody could figure out what

10:07:48 24 immigration does. I sustain the objection.

10:07:51 25 Q. (BY MR. MAYR) Let me rephrase this to you.

10:07:54 1 No one has come to you and informed you that
10:07:58 2 immigration is taking any action against you to take away your
10:08:02 3 lawful permanent residence status?
10:08:05 4 A. No, sir.
10:08:05 5 Q. Okay. I'm going to move forward a little bit. In this
10:08:09 6 particular charge that you're facing up in the Northern District,
10:08:13 7 you have not pled guilty to that offense?
10:08:15 8 A. Right, sir.
10:08:16 9 Q. Are you -- has anyone, federal government, whatever -- are
10:08:22 10 you aware that if you plead guilty and are convicted of the
10:08:26 11 offense that you are presently charged with, are you aware that
10:08:30 12 you are subject to automatic deportation back to Mexico?
10:08:34 13 MR. GARDNER: Your Honor, I think he's asked and
10:08:35 14 answered this question about four different times. It's getting
10:08:39 15 repetitive.
10:08:40 16 MR. MAYR: I was talking about pre. Now I'm talking
10:08:42 17 about post-plea, if he's aware of that or not.
10:08:44 18 THE COURT: Well, I know this. If immigration did
10:08:56 19 anything, he wouldn't be here. He's on bond. So they have no
10:09:03 20 detainees on him. And I don't think he can answer what is going
10:09:07 21 to happen. I sustain the objection. Not on the grounds -- it's
10:09:11 22 just that it's just totally conjecture. And of the 25 of us who
10:09:17 23 do this for a living, Mr. Vasquez is the one who knows the least
10:09:23 24 about what's going on.
10:09:26 25 MR. MAYR: Fair enough.

10:09:27 1 THE COURT: You made your point that it's a deportable
10:09:30 2 offense.

10:09:31 3 MR. MAYR: Okay.

10:09:31 4 THE COURT: Let's leave it at that.

10:09:33 5 MR. MAYR: Fair enough.

10:09:33 6 Q. (BY MR. MAYR) You do understand what you are charged with,
10:09:41 7 the offense that you're charged with up in the Northern Direct of
10:09:43 8 Texas, correct?

10:09:46 9 A. By listening to what he read on that earlier, yes.

10:09:49 10 Q. Okay. At the time that you were delivering this money that
10:10:03 11 you testified to earlier to these various individuals, did you
10:10:11 12 know what you were doing was illegal?

10:10:20 13 A. At the point I didn't think it -- I didn't really think what
10:10:23 14 I was doing. I was just doing what I was told to do.

10:10:27 15 Q. Right.

10:10:28 16 A. Come to the -- to where later that, you know, my son told me
10:10:36 17 what could happen if I was to get caught or I was going to jail.
10:10:42 18 I didn't do it no more.

10:10:43 19 Q. Right. That's much later on.

10:10:44 20 A. Right. I didn't know.

10:10:45 21 Q. But when your son comes to you and he says, I need you to
10:10:48 22 take this money, you didn't know what you were doing was illegal,
10:10:51 23 right?

10:10:51 24 A. Right, sir. He just gave me the bag.

10:10:54 25 Q. As was previously established with Mr. Esper, you didn't

10:10:57 1 know at the time that your son was a drug dealer.

10:11:01 2 A. Right.

10:11:01 3 Q. You didn't know that the money that you were delivering to

10:11:05 4 these individuals was derived from your son's illegal activities

10:11:11 5 selling and dealing in cocaine and other drugs?

10:11:14 6 A. Right.

10:11:18 7 Q. When you made these deliveries to individuals like Mr.

10:11:24 8 Trevino over here, you did not know what that money was going to

10:11:29 9 be used for.

10:11:35 10 A. Mr. Trevino. Who was Mr. Trevino?

10:11:39 11 Q. The individual that you -- in the parking lot in --

10:11:42 12 A. Lake June, yeah. I didn't know what the money was used for.

10:11:47 13 Q. No idea that it was going to be used for an illegal purpose,

10:11:51 14 correct?

10:11:51 15 A. Right. I didn't know that, sir. No, sir.

10:11:55 16 Q. Do you intend to plead guilty to your charge up in the

10:11:59 17 Northern District of Texas?

10:12:00 18 MR. GARDNER: Your Honor, I'm going to object to that

10:12:01 19 as the relevance at this point.

10:12:03 20 THE COURT: With the stipulation I agree. I sustain

10:12:06 21 the objection.

10:12:14 22 Q. (BY MR. MAYR) Do you believe that you were guilty of the

10:12:16 23 offense that you were charged with up in the Northern District of

10:12:19 24 Texas?

10:12:20 25 MR. GARDNER: Object, your Honor. Again, the

10:12:22 1 stipulation covers this. He has not yet entered a plea.

10:12:24 2 THE COURT: And he sits down here without a lawyer,

10:12:27 3 counsel.

10:12:29 4 MR. MAYR: Will you allow the question then?

10:12:31 5 THE COURT: Absolutely not.

10:12:32 6 MR. MAYR: Thank you.

10:12:42 7 Q. (BY MR. MAYR) I think you said something earlier on previous

10:12:45 8 questions that you're trying to help -- you're willing to do

10:12:49 9 anything to try to help your family; is that correct?

10:12:51 10 A. Right, sir.

10:12:52 11 Q. No further questions, your Honor.

10:13:13 12 THE COURT: Any further redirect?

10:13:14 13 MR. GARDNER: Yes, your Honor.

10:13:15 14 RE-DIRECT EXAMINATION

10:13:15 15 BY MR. GARDNER:

10:13:23 16 Q. Mr. Vasquez, I think there was some confusion because my

10:13:25 17 recollection of your testimony when I asked you questions was

10:13:29 18 that you knew it was drug money, and the questions from these

10:13:32 19 gentlemen, you said you didn't know the extent or you didn't know

10:13:38 20 your son was a drug dealer. Let me ask you this question.

10:13:40 21 Did you know your son was distributing cocaine?

10:13:44 22 A. Distributing, what exactly it meant, the word mean,

10:13:48 23 distributing.

10:13:48 24 Q. Okay. Selling drugs?

10:13:49 25 A. Yes, sir. Yes. Yes.

10:13:53 1 Q. And did you know when you delivered all that money to those
10:13:56 2 three locations that that money came from the sale of drugs?
10:14:01 3 A. Yes, sir.
10:14:01 4 Q. Now, I just want to make sure. I'm showing you Government's
10:14:05 5 Exhibit 335E. And Mr. DeGeurin asked you if that was an
10:14:27 6 individual you knew as Payen or Nayen. Do you recall which one,
10:14:31 7 sir?
10:14:32 8 A. Nayen.
10:14:33 9 Q. And, again, could you just refresh the jury's memory, where
10:14:37 10 did you deliver money to him?
10:14:40 11 A. In Dallas off 183 in a motel.
10:14:45 12 Q. I'm showing you Government's Exhibit 335C. Do you see that
10:14:51 13 on your screen, sir?
10:14:52 14 A. Yes, sir.
10:14:53 15 Q. And 335I?
10:14:56 16 A. Right, sir.
10:14:57 17 Q. And where did you deliver money to them?
10:15:00 18 A. I delivered money to them on Lake June Road in Dallas,
10:15:05 19 Texas.
10:15:07 20 Q. Now, Mr. Womack asked you a question about why did you come
10:15:12 21 back to the United States, and you said because there was no life
10:15:14 22 in Mexico. What do you mean by that?
10:15:18 23 A. The pay is real cheap. You can make no money. I mean, I've
10:15:22 24 been in the United States all my life. I was raised here and I
10:15:27 25 went to school and everything here. I never been living in

10:15:31 1 Mexico to really get a good job over there. If you don't have
10:15:36 2 education over there, you can't get a good job. You've got to
10:15:40 3 work whatever they want to pay you for. So that's -- I mean, I
10:15:43 4 wanted to come back, plus I got my family here, I got the rest of
10:15:46 5 my children. That's why I wanted to come back over here.

10:15:50 6 Q. Can you make a better living here in the United States?

10:15:52 7 A. Right.

10:15:53 8 Q. One of the attorneys asked you a question about your case
10:15:56 9 and you said, I've never been in trouble before. Do you have any
10:15:59 10 other illegal problems in your life other than the current ones?

10:16:02 11 A. Not that I recall to my knowledge. Back in 1980 or '82, I
10:16:07 12 had a DWI.

10:16:08 13 Q. And is that the only other criminal?

10:16:09 14 A. That's criminal that I have right there.

10:16:12 15 Q. Okay. Thank you, Mr. Vasquez.

10:16:14 16 THE COURT: Mr. Finn.

10:16:15 17 RE-CROSS EXAMINATION

10:16:15 18 BY MR. FINN:

10:16:16 19 Q. Thank you, your Honor. May it please the Court, Mr.
10:16:18 20 Gardner, members of the jury.

10:16:19 21 Mr. Vasquez, you were interviewed several different
10:16:22 22 times by FBI and the DEA about these cash payments. Is that
10:16:28 23 accurate?

10:16:29 24 A. I didn't understand that, sir.

10:16:31 25 Q. Okay. I'm sorry. I'll slow down.

10:16:34 1 You've been interviewed by the police or law
10:16:41 2 enforcement several different times about taking cash to people
10:16:45 3 for your son, right?
10:16:51 4 A. Yes, sir.
10:16:52 5 Q. Okay. And do you remember at one point stating to law
10:16:58 6 enforcement that you delivered some money to the Wal-Mart at
10:17:03 7 Buckner Boulevard and I-30, a white suburban, lights on, one car,
10:17:10 8 one guy, \$145,000? Do you remember that?
10:17:19 9 A. I-30 and Buckner?
10:17:21 10 Q. Yes, sir. Wal-Mart at Buckner and I-30. Do you remember
10:17:26 11 saying that?
10:17:30 12 A. Not to my knowledge right now, sir. I can't remember ever
10:17:34 13 saying that, Buckner.
10:17:38 14 Q. That's all, your Honor. Thank you, sir.
10:17:42 15 MR. DEGEURIN: No further questions.
10:17:44 16 MR. WOMACK: None, sir.
10:17:46 17 MR. ESPER: Nothing further, your Honor.
10:17:47 18 MR. MAYR: Judge, I do have clear-up.
10:17:49 19 THE COURT: Okay.
10:17:49 20 RE-CROSS EXAMINATION
10:17:49 21 BY MR. MAYR:
10:17:50 22 Q. Mr. Vasquez, I apologize for belaboring the point, but I
10:17:54 23 need to ask you again.
10:17:56 24 Mr. Gardner asked you if you were aware that what your
10:17:59 25 son -- that the money was derived from drug sales. Do you

10:18:03 1 remember that?

10:18:06 2 A. I can't understand, really, the way you're putting that out

10:18:09 3 to me. If you ask what the way he asked me, if the money that

10:18:14 4 was being taken to the people that I delivered to, did that money

10:18:18 5 came from drugs? Yes, sir. That's what you want to ask me,

10:18:21 6 that's the way I understand that.

10:18:22 7 Q. This is what I need to ask you. You know that right now,

10:18:25 8 sitting in this courtroom, that that money was illegal, correct?

10:18:30 9 A. Right, sir.

10:18:33 10 Q. You know that because your son was indicted and has pled

10:18:38 11 guilty for his involvement in doing that, right? Let me just ask

10:18:48 12 it this way.

10:18:48 13 How do you know that what you did was illegal?

10:18:56 14 A. Because I knew the money was coming from the drugs. The

10:19:00 15 money was illegal.

10:19:02 16 Q. How did you know that?

10:19:05 17 MR. GARDNER: Your Honor, I think he just answered that

10:19:06 18 question. Repetitive. Asked and answered.

10:19:09 19 THE COURT: Listen to me. When did it come apparent to

10:19:15 20 you that the money was from drugs?

10:19:23 21 THE WITNESS: My son never did told me everything he

10:19:26 22 did. I seen when he got money and tells me to take this over

10:19:33 23 there, take this over here. I was -- at that time, I was laying

10:19:38 24 brick. I was working legally right. I mean, you got to be --

10:19:45 25 you can't act dumb or be dumb by not knowing so much money --

10:19:49 1 where you're getting so much money. I mean, myself, I mean, I've
10:19:52 2 never had that kind of money myself, even though I've been
10:19:55 3 working all my life.

10:19:58 4 But he kept some stuff from me that I didn't know.

10:20:01 5 Q. (BY MR. MAYR) And you learned about that stuff well after
10:20:05 6 you delivered this money to these individuals, right?

10:20:08 7 MR. GARDNER: Your Honor, that is asked and answered.

10:20:11 8 Objection.

10:20:12 9 THE COURT: He just answered it. I'll sustain the
10:20:14 10 objection.

10:20:18 11 MR. MAYR: I have no further questions. Thank you, Mr.
10:20:25 12 Vasquez. Thank you, your Honor.

10:20:26 13 MR. GARDNER: Nothing further, your Honor. May this
10:20:28 14 witness be excused?

10:20:29 15 MR. FINN: No objection, your Honor.

10:20:30 16 THE COURT: Anybody have any objections?

10:20:32 17 MR. WOMACK: No.

10:20:33 18 MR. DEGEURIN: No.

10:20:33 19 MR. MAYR: None, your Honor.

10:20:34 20 THE COURT: Mr. Vasquez, you may be excused. You may
10:20:37 21 call your next witness.

10:20:38 22 MR. GARDNER: Your Honor, before I call my next
10:20:41 23 witness, the government would like to offer two exhibits.

10:20:46 24 Exhibit No. 229, which consists of the Los Alamitos Horse Sale,
10:20:52 25 Quarter Horse Racing, Incorporated, 229A through E inclusive.

10:20:57 1 They're Bates-stamped with the following Bates stamps: 21 in
10:21:02 2 sequence, 48 in sequence, and 60 in sequence. They have a
10:21:08 3 custodial affidavit that has been provided to the defense
10:21:12 4 attorneys, along with discovery. We'd offer Government's Exhibit
10:21:14 5 229A through E.

10:21:47 6 MR. MAYR: We have no objection.

10:21:49 7 MR. DEGEURIN: Okay. I have no objection.

10:21:50 8 MR. MAYR: No objections, your Honor.

10:21:52 9 MR. ESPER: No objection.

10:21:54 10 THE COURT: Were there any objections?

10:21:57 11 MR. FINN: (Moves head side to side.)

10:21:58 12 THE COURT: All right. 229, 229A through E are

10:22:01 13 admitted.

10:22:02 14 MR. GARDNER: Your Honor, I'd also like to offer
10:22:05 15 Government's Exhibit 230, which is 230A through L. They are the
10:22:10 16 Heritage Place auction records. They have a business record
10:22:16 17 affidavit signed by the custodian of the records at Heritage
10:22:19 18 Place. They're Bates-stamped the following Bates stamp
10:22:23 19 sequences: 13, 32 and 59. They've been provided to defense
10:22:29 20 counsel in discovery.

10:22:37 21 THE COURT: Were there any objections to those
10:22:38 22 exhibits? Or do you need additional time?

10:22:44 23 MR. FINN: Judge, could I confer with co-counsel? No
10:22:49 24 objections, Judge.

10:22:53 25 MR. DEGEURIN: One second, Judge. No objection.

10:23:05 1 THE COURT: All right. Any objections? All right.

10:23:11 2 230, 230A through L are admitted.

10:23:16 3 MR. GARDNER: With that, we would call Mauricio Paez.

10:23:32 4 (Witness sworn.)

10:23:51 5 THE COURT: I want you to tell us your full name and

10:23:59 6 spell your last, please, sir.

10:24:00 7 THE WITNESS: Mauricio Paez, P-A-E-Z.

10:24:04 8 THE COURT: You may proceed.

10:24:05 9 MR. GARDNER: Thank you, your Honor.

10:24:06 10 MAURICIO PAEZ, called by the Government, duly sworn.

10:24:06 11 DIRECT EXAMINATION

10:24:06 12 BY MR. GARDNER:

10:24:13 13 Q. Mr. Paez, you and I have met before; is that correct?

10:24:16 14 A. Yes.

10:24:16 15 Q. And where are you a citizen, sir?

10:24:19 16 A. Mexico.

10:24:21 17 Q. And you speak very good English. And would you and I and do

10:24:26 18 these defense lawyers -- let me strike that.

10:24:28 19 Would you like to give your testimony in English today?

10:24:30 20 A. Okay.

10:24:31 21 Q. And you have interpreter back there in case you need to

10:24:34 22 clarify any terms or questions, correct?

10:24:36 23 A. Yes.

10:24:37 24 Q. Okay. Please feel free to use her.

10:24:40 25 So, sir, how long -- do me a favor. Could you

10:24:43 1 introduce yourself to the jury? Tell them how you old are, what
10:24:47 2 you do for a living.

10:24:48 3 A. I'm 48 years old. And I do real estate.

10:24:52 4 Q. And how long have you done real estate?

10:24:55 5 A. About ten years.

10:24:56 6 Q. And is that in Mexico?

10:24:57 7 A. Yeah.

10:24:58 8 Q. And what city in Mexico?

10:25:00 9 A. Monterrey.

10:25:01 10 Q. And, sir, what is your ability to travel to the United
10:25:06 11 States? What is your ability to travel? How are you here today?

10:25:10 12 A. By car.

10:25:11 13 Q. Okay. That's a good answer. Can you cross the border
10:25:20 14 legally?

10:25:20 15 A. Yes.

10:25:20 16 Q. That was a better question. And how can you do that?

10:25:24 17 A. With my passport and my visa.

10:25:26 18 Q. Do you have a visa that allows you to travel to the United
10:25:28 19 States?

10:25:28 20 A. Yes, sir.

10:25:29 21 Q. And sir, what is the name of your company?

10:25:34 22 A. Basic Enterprises.

10:25:36 23 Q. When you say Basic, that's B-A-S-I-C?

10:25:39 24 A. Yes, sir.

10:25:39 25 Q. And, sir, when was that company formed?

10:25:42 1 A. In 2008, approximately. Seven or 8. I don't remember
10:25:49 2 exactly.

10:25:49 3 Q. And you mentioned earlier, that's a real estate company?

10:25:52 4 A. Yes.

10:25:53 5 Q. Okay. What type of real estate are you involved with?

10:25:56 6 A. Buying and selling houses and all that kind.

10:26:03 7 Q. Residential real estate?

10:26:05 8 A. Yes.

10:26:06 9 Q. Commercial real estate, as well?

10:26:07 10 A. Yes.

10:26:07 11 Q. And you also have another business?

10:26:11 12 A. Yes, sir.

10:26:12 13 Q. And what business is that?

10:26:13 14 A. Exchange house.

10:26:15 15 Q. When you say exchange house, sometimes in the United States,
10:26:17 16 we call them casa de cambios.

10:26:21 17 A. Yes, sir.

10:26:21 18 Q. And does that involve the exchange of foreign currency from
10:26:25 19 one currency to another?

10:26:26 20 A. Yes, sir.

10:26:28 21 Q. And so, what -- or how long have you had that business?

10:26:32 22 A. About 13 years.

10:26:34 23 Q. And is that also in Monterrey?

10:26:36 24 A. Yes, sir.

10:26:37 25 Q. So what currencies do you deal with?

10:26:39 1 A. U.S. dollars and Euros and sterling pounds.

10:26:47 2 Q. Do you exchange them between each other and pesos?

10:26:50 3 A. Yes.

10:26:51 4 Q. Now, what is the limit that someone can deposit U.S. cash

10:26:57 5 into your exchange house?

10:27:00 6 A. Right now, it's about \$5,000.

10:27:03 7 Q. And is that based on Mexican regulations?

10:27:07 8 A. Yes.

10:27:07 9 Q. Being from Mexico, are you familiar with the fact that

10:27:10 10 sometimes drug dealers use exchange houses to exchange dollars

10:27:14 11 for pesos?

10:27:15 12 A. Yes.

10:27:16 13 Q. And what steps have you personally taken to prevent that

10:27:20 14 from happening with your exchange house?

10:27:24 15 A. I increase my fee with them so they cannot go with me.

10:27:29 16 Q. So you charge a higher fee?

10:27:31 17 A. Yes.

10:27:31 18 Q. So who are most of your customers?

10:27:33 19 A. All the Mexican people that lives for a long time in

10:27:41 20 Monterrey and there's some known in Mexico.

10:27:45 21 Q. Are they known to you?

10:27:47 22 A. Me and public persons with a lot of time, with a lot of

10:27:52 23 business in Monterrey or in Mexico.

10:27:54 24 Q. Okay. For most of these customers, have you dealt with them

10:27:57 25 since you opened your business?

10:27:59 1 A. Yes.

10:27:59 2 Q. Have you known an individual by the name of Ramiro

10:28:04 3 Villarreal?

10:28:04 4 A. Yes.

10:28:05 5 Q. And how do you know that individual?

10:28:06 6 A. He came with -- I got a client named Francisco Rodriguez.

10:28:13 7 He called and he told me about Ramiro Villarreal that he make --

10:28:19 8 he was in his business doing -- buying and selling horses and he

10:28:25 9 want to be -- make some transactions with me so.

10:28:30 10 Q. Which --

10:28:30 11 A. That's why -- how I knew him.

10:28:32 12 Q. And so, did you know him prior to being introduced by Mr.

10:28:37 13 Rodriguez?

10:28:37 14 A. No.

10:28:38 15 Q. So were you ever then introduced to Mr. Ramiro Villarreal?

10:28:43 16 A. Yes.

10:28:43 17 Q. And when do you recall the first time you met him, the first

10:28:47 18 year?

10:28:48 19 A. Maybe about 2007, 2008 -- no. 2008 maybe.

10:28:55 20 Q. And you said you verified some of your other customers.

10:28:59 21 Could you verify Mr. Ramiro Villarreal?

10:29:00 22 A. Yes.

10:29:00 23 Q. And how do you do that, sir?

10:29:01 24 A. Via internet. I look for his name and all the information I

10:29:05 25 got from him with pictures and everything, say that he was good

10:29:12 1 salesman in horses.

10:29:16 2 Q. So what exactly did you do for Mr. Villarreal in terms of

10:29:20 3 helping him out?

10:29:21 4 A. He gave me money so he can pay the horses that he bought in

10:29:27 5 the U.S.

10:29:28 6 Q. And what denominations or what country's currency did he

10:29:33 7 give?

10:29:34 8 A. U.S. dollars.

10:29:34 9 Q. And did you ask him to give you U.S. dollars?

10:29:37 10 A. No. I request pesos, but he told me it was easier for him

10:29:42 11 with U.S. dollars.

10:29:43 12 Q. And why did you request pesos?

10:29:45 13 A. Because it's easier and cheaper for him.

10:29:48 14 Q. How so? How is it easier and cheaper for him?

10:29:52 15 A. It's easier because we can buy pesos. With pesos we buy

10:29:58 16 dollars. Instead, if I got dollars, I got to sell the dollars

10:30:02 17 and then, by -- cash dollars and then, by wire to transfer to do

10:30:10 18 the payment in U.S.

10:30:11 19 Q. So does it take a little longer to get the dollars?

10:30:14 20 A. Yes, sir.

10:30:15 21 Q. And sell them off?

10:30:17 22 And did Mr. Villarreal explain to you why he couldn't

10:30:19 23 simply just pick up the horses in the United States?

10:30:23 24 A. No. He didn't tell me.

10:30:25 25 Q. And so, what specific services -- let's just use one

10:30:30 1 example. So let's say Mr. Villarreal gave you cash.

10:30:32 2 A. Yes.

10:30:33 3 Q. How would that transaction occur and what would you do with

10:30:36 4 that money?

10:30:36 5 A. I would sell the cash with my clients and then, with that

10:30:41 6 pesos, I will buy a wire and do the deposit to the instructions

10:30:46 7 that Ramiro gave me in that case.

10:30:49 8 Q. So how would you receive the instructions?

10:30:51 9 A. Via internet or via e-mail or in paper.

10:30:59 10 Q. When you say paper, I'm sorry?

10:31:00 11 A. Letter.

10:31:02 12 Q. Okay. And did Mr. Villarreal ever explain why he couldn't

10:31:13 13 open his own bank account?

10:31:15 14 A. No. Never.

10:31:16 15 Q. And did you have a bank account that was available for that?

10:31:18 16 A. Yes.

10:31:21 17 Q. Now, sir, I'm going to show you Government's Exhibits 230D,

10:31:30 18 specifically page 13-1160. Is that your company on there, sir?

10:31:38 19 A. Yes, sir.

10:31:39 20 Q. That's Basic Enterprise, correct?

10:31:41 21 A. Yes, sir.

10:31:42 22 Q. And did you make this wire transfer?

10:31:45 23 A. Yes.

10:31:54 24 Q. Putting that on the screen right in front of you so the jury

10:31:58 25 could see what I'm referring to, that's the Bates number down

10:32:01 1 there, 13-1160.

10:32:04 2 And this is a wire transfer from you, as you testified,

10:32:09 3 right, sir?

10:32:10 4 A. Yes.

10:32:11 5 Q. And it's going to this place?

10:32:13 6 A. That's correct.

10:32:14 7 Q. Was that what you were told by Mr. Ramiro Villarreal, just

10:32:19 8 he gave you those wiring instructions?

10:32:20 9 A. Yes, sir.

10:32:21 10 Q. In this case, sir, how much was the wire for?

10:32:27 11 A. It says \$100,000.

10:32:30 12 Q. And, again, was that \$100,000 for this particular wire

10:32:34 13 provided to you in cash by Mr. Ramiro Villarreal?

10:32:37 14 A. Yes.

10:32:38 15 Q. Showing you Government's Exhibit 229B, which is a Los

10:32:53 16 Alamitos sales records, specifically, page 21-264. Is that

10:32:58 17 another wire, sir, from you personally?

10:33:00 18 A. Yes.

10:33:01 19 Q. And was this another wire that was directed by Mr. Ramiro

10:33:04 20 Villarreal?

10:33:04 21 A. That's correct.

10:33:05 22 Q. And, sir, I'm going to flip the page here to Bates No.

10:33:09 23 21-265. Is that another wire?

10:33:12 24 A. Yes, sir.

10:33:15 25 Q. And, again, right up there, this is you, correct, sir?

10:33:40 1 A. Yes, sir.

10:33:41 2 Q. And this is where you sent the wire to?

10:33:48 3 A. Yes.

10:33:49 4 Q. And the amount is how much?

10:33:51 5 A. \$50,000.

10:33:52 6 Q. Is that U.S. dollars?

10:33:54 7 A. U.S. dollars.

10:33:55 8 Q. And the next page, again, to the same place and what's the

10:34:02 9 amount here, sir?

10:34:02 10 A. \$70,000.

10:34:05 11 Q. And, again, this is not you this time but your company?

10:34:08 12 A. Yes, sir.

10:34:08 13 Q. Sir, how did you come to learn about this investigation?

10:34:13 14 A. Sir, can you repeat the --

10:34:15 15 Q. How did you come to learn about the U.S. government's

10:34:17 16 investigation?

10:34:18 17 A. In June, I got a notice via newspaper in Monterrey and I

10:34:24 18 approached with my lawyer, and then spoke with -- to do a meeting

10:34:31 19 with the FBI to declare that I was not involved in this kind of

10:34:35 20 business.

10:34:36 21 Q. And so, did you come across the border willingly?

10:34:38 22 A. Yes.

10:34:39 23 Q. Okay. Do you have a lawyer to advise you?

10:34:41 24 A. Yes, sir.

10:34:42 25 Q. And when you said the FBI, is that Special Agent Lawson over

10:34:45 1 there you met with?

10:34:46 2 A. Yes. That's correct.

10:34:47 3 Q. All right. And what did you provide him with when you came

10:34:49 4 across?

10:34:50 5 A. All those papers and all the e-mails that I have from

10:34:56 6 Ramiro, from Francisco and his assistant, also.

10:34:58 7 Q. Did you provide him with passwords to your e-mail account?

10:35:01 8 A. Yes.

10:35:02 9 Q. And did you provide him with what they call a USB --

10:35:05 10 A. A USB also.

10:35:06 11 Q. Did you ever deal directly with the horse auction houses in

10:35:23 12 the United States?

10:35:23 13 A. No, sir.

10:35:24 14 Q. So all the instructions came through Ramiro Villarreal?

10:35:26 15 A. Yes, sir.

10:35:27 16 Q. Were you ever familiar with the names of the horses that Mr.

10:35:35 17 Villarreal was buying?

10:35:36 18 A. No, sir.

10:35:40 19 Q. In addition to the purchases for the horses, did you make

10:35:42 20 other payments at the request of Mr. Villarreal?

10:35:45 21 A. Yes. Through some hospitals and to buy some stuff to

10:35:49 22 horses.

10:35:53 23 Q. Mr. Villarreal, I'm showing you Government's Exhibit 400.

10:36:21 24 Was that a piece of the information that you provided to Special

10:36:24 25 Agent Lawson?

10:36:24 1 A. Yes, sir.

10:36:25 2 Q. And do you recognize that, sir?

10:36:27 3 A. This paper?

10:36:28 4 Q. Yes, sir.

10:36:29 5 A. Yes, sir.

10:36:30 6 Q. And is this one of your records?

10:36:31 7 A. Yes.

10:36:32 8 Q. Your Honor, I would offer Government's Exhibit 400.

10:36:38 9 MR. ESPER: No objection.

10:36:39 10 MR. WOMACK: No objection.

10:36:41 11 MR. MAYR: Judge, if I may have one moment. Make sure

10:36:45 12 this isn't something in the Jencks material.

10:36:59 13 Judge, may we approach?

10:37:05 14 (At the bench, on the record.)

10:37:17 15 MR. MAYR: Your Honor, going through my Jencks material

10:37:20 16 from this document was taken from, I see that there's a number of

10:37:23 17 other similar documents showing transactions with a number of

10:37:28 18 other individuals. Under the rule of optional completeness, I

10:37:30 19 would like to have those other documents admitted, in addition to

10:37:37 20 Government's Exhibit No. 400, as this only presents a very minute

10:37:43 21 portion of the number of transactions that this witness was

10:37:45 22 dealing with.

10:37:47 23 MR. DEGEURIN: I have no objections.

10:37:49 24 MR. GARDNER: He can introduce whatever he wants to on

10:37:49 25 his.

10:37:50 1 THE COURT: I was going to say. You're going to have
10:37:52 2 the opportunity to.

10:37:53 3 MR. MAYR: Okay. I just want to make my objection
10:37:56 4 known at this point. Well --

10:37:57 5 THE COURT: So you're objecting.

10:38:00 6 MR. MAYR: I guess what -- I guess under -- my
10:38:04 7 understanding what optional completeness is, I have to make the
10:38:06 8 objection now and ask that the entire exhibit be admitted and not
10:38:08 9 just part of it.

10:38:11 10 MR. DEGEURIN: That is the rule in the state court.

10:38:13 11 MR. GARDNER: It's not an exhibit, Judge. It's a set
10:38:15 12 of documents.

10:38:16 13 THE COURT: You want the entire set?

10:38:18 14 MR. MAYR: Yes. I could admit it during my cross of
10:38:23 15 Mr. --

10:38:23 16 THE COURT: Well, you see, you all have seen it and you
10:38:26 17 know what's relevant. I take it from the conversation, there's
10:38:29 18 no objections. Maybe there is an objection to the rest of it.
10:38:33 19 So at this point in time, I'll admit the individual document. I
10:38:39 20 reserve on the admissibility on the other until it's presented,
10:38:45 21 because there may be objections to it.

10:38:46 22 MR. MAYR: Fair enough. Thank you, Judge.

10:38:47 23 THE COURT: You're welcome. 400 is received and
10:38:57 24 admitted.

10:39:06 25 Q. (BY MR. GARDNER) Mr. Villarreal, Government's Exhibit 400 is

10:39:11 1 the document that we just talked about, correct?

10:39:15 2 A. Yes.

10:39:16 3 Q. This is one of many documents --

10:39:19 4 A. Absolutely. Yes.

10:39:20 5 Q. -- you provided. The documents in general are the list of

10:39:23 6 your expenses that you paid. Are they the list of your expenses

10:39:27 7 you paid on behalf of Mr. Villarreal?

10:39:29 8 A. Yes, sir.

10:39:29 9 Q. All right. And this one here, in particular, was this an

10:39:34 10 expense you paid to Huitron Homes in Austin, Texas?

10:39:37 11 A. Yes.

10:39:42 12 Q. Was all the money or all the funds that Mr. Villarreal

10:39:47 13 provided you, was it all in United States currency?

10:39:51 14 A. Yes, sir.

10:39:52 15 Q. If you could give the jury your best estimate of the amount

10:39:57 16 of money that Mr. Villarreal gave you over the timeframe you

10:40:00 17 dealt with him, what would that be?

10:40:02 18 A. About -- in all the time?

10:40:04 19 Q. All the time, yes, sir.

10:40:05 20 A. About -- I think about three-and-a-half-million dollars.

10:40:08 21 Q. And, sir, what was the length of time in which you dealt

10:40:11 22 with Mr. Villarreal?

10:40:12 23 A. Since 2010 -- 7 to 2010, approximately.

10:40:17 24 Q. And was there a period there, at the end, when you stopped

10:40:19 25 dealing with Mr. Villarreal?

10:40:21 1 A. Yes.

10:40:21 2 Q. And why was that, sir?

10:40:22 3 A. Because he had a problem with one of his employees and that

10:40:31 4 stole some -- I think that Ramiro told me, then, that he stole --

10:40:36 5 that his employee stole the money from him.

10:40:38 6 MR. DEGEURIN: Excuse me, your Honor, I'm going to

10:40:40 7 object to hearsay.

10:40:40 8 THE COURT: It is hearsay. Need a little quicker

10:40:44 9 objection to, but we'll slide with it. I don't know that it has

10:40:50 10 any materiality.

10:40:52 11 MR. GARDNER: It's not that important at this point,

10:40:53 12 your Honor.

10:40:54 13 Q. (BY MR. GARDNER) And so, was that employee that you talked

10:40:57 14 about earlier Francisco Rodriguez?

10:40:59 15 A. Yes, sir.

10:41:00 16 Q. And did you have a conversation with Mr. Villarreal about

10:41:04 17 Mr. Rodriguez stealing that money?

10:41:06 18 A. Yes.

10:41:07 19 Q. All right. And what was that conversation?

10:41:10 20 A. When he noticed that Francisco --

10:41:12 21 MR. DEGEURIN: That's hearsay.

10:41:15 22 MR. GARDNER: Coconspirator exception, your Honor.

10:41:17 23 THE COURT: Well, I understand that. But I don't know

10:41:19 24 what the answer is.

10:41:21 25 Members of the jury, you go get some exercise. I've

10:41:25 1 got to listen to this.

10:42:01 2 (Jury not present.)

10:42:31 3 THE COURT: Lily, if you'll read back the question.

10:42:31 4 (Last question read back.)

10:42:33 5 A. Ramiro told me that Francisco didn't know whose money it
10:42:40 6 was. He was in a real problem because it was not Ramiro's money.

10:42:49 7 MR. GARDNER: We believe that raises the inference that
10:42:52 8 Mr. Ramiro was getting his money from others, the Zetas.

10:43:01 9 THE COURT: I sustain the objection to the question
10:43:04 10 asked. It's not a statement in furtherance of the conspiracy.

10:43:16 11 Bring them in.

10:43:16 12 While the jury's coming back, I received a note from
10:43:21 13 the jury: We do not know who G-335C or 335I are. I started to
10:43:36 14 tell them I don't either, but that's a communication that I got
10:43:41 15 in a little sheet of paper. So you might -- just so you know
10:43:48 16 that's part of the record.

10:44:44 17 (Jury present.)

10:44:54 18 THE COURT: I can assure you that that's not going to
10:45:03 19 become routine, but sometimes I must listen to the evidence from
10:45:06 20 the response to make a ruling on it one way or the other.

10:45:09 21 The objection is sustained. You may ask your next
10:45:12 22 question.

10:45:12 23 Q. (BY MR. GARDNER) When the period was you were having
10:45:17 24 dealings or much dealings, did you stop have dealings with Ramiro
10:45:21 25 Villarreal?

10:45:21 1 A. Can you repeat the question, please?

10:45:22 2 Q. Did you at some point stop having dealings with Mr.

10:45:26 3 Villarreal?

10:45:26 4 A. Yes.

10:45:27 5 Q. And when was that?

10:45:27 6 A. Almost at the end.

10:45:29 7 Q. Could you give me a timeframe on that, sir?

10:45:32 8 A. Maybe about June or July 2009, I think.

10:45:38 9 Q. Okay. And why did you stop having interactions with Mr.

10:45:41 10 Villarreal?

10:45:41 11 A. They didn't -- just they didn't come to my office and I was

10:45:49 12 waiting for them.

10:45:53 13 Q. Your Honor, I'll pass the witness.

10:45:56 14 MS. WILLIAMS: No question.

10:46:02 15 CROSS-EXAMINATION

10:46:05 16 BY MR. DEGEURIN:

10:46:05 17 Q. Mr. Paez, I'm Mike DeGeurin and we have not had the pleasure

10:46:11 18 of meeting, have we?

10:46:12 19 A. No.

10:46:13 20 Q. You mentioned that Mr. Villarreal came to you different

10:46:24 21 times. And you also mentioned a Mr. Francisco Rodriguez.

10:46:30 22 A. Yes.

10:46:30 23 Q. And Francisco Rodriguez would be with him at times?

10:46:36 24 A. At the beginning, they told me that they were just friends.

10:46:40 25 And afterwards, Ramiro told me that Francisco was -- was going to

10:46:44 1 be working with him.

10:46:47 2 Q. And Mr. Villarreal, did you say Mr. Villarreal was buying
10:46:54 3 horses for many different people, including himself?

10:46:58 4 A. I don't know. I just was told that he was -- his business
10:47:02 5 was buying and selling horses.

10:47:04 6 Q. All right. And did you have any personal experience with
10:47:09 7 whether or not -- or how many horses Mr. Villarreal bought, and
10:47:14 8 how many he bought for other people, and how many other people he
10:47:16 9 worked for?

10:47:17 10 A. No, sir.

10:47:20 11 Q. You don't know whether he had a number of clients or?

10:47:24 12 A. No. I don't know.

10:47:25 13 Q. Ten clients.

10:47:28 14 How about Mr. Francisco Rodriguez? What did you
10:47:32 15 understand or what were you told Mr. Francisco Rodriguez's job
10:47:39 16 was?

10:47:39 17 A. With Ramiro Villarreal.

10:47:43 18 Q. Yes.

10:47:43 19 A. He was working with him. I don't know the specific things
10:47:47 20 he was doing.

10:47:50 21 Q. So it was your impression that Mr. Francisco Rodriguez was
10:47:54 22 helping Mr. Villarreal buy horses for whoever he was buying
10:47:59 23 horses for?

10:48:02 24 A. Exactly, I don't know what he was -- his real things do with
10:48:10 25 Ramiro.

10:48:11 1 Q. All right. But that's what you -- that's what you thought?

10:48:15 2 A. Yes. That he was working -- Ramiro told me, Francisco was

10:48:19 3 going to be working with me.

10:48:21 4 Q. Okay.

10:48:21 5 A. That's all.

10:48:23 6 Q. Now, did Mr. Francisco Rodriguez have a nickname?

10:48:30 7 A. "Paco."

10:48:31 8 Q. "Paco"?

10:48:32 9 A. Yes.

10:48:32 10 Q. P-A-C-O?

10:48:33 11 A. Yes. P-A-C-O.

10:48:45 12 Q. Is it -- I've been learning from your testimony this

10:48:52 13 morning. If someone is going to wire money from Mexico to the

10:49:00 14 United States and want to send it by wire and they have dollars,

10:49:04 15 are you telling me that what they would do, come to a business

10:49:08 16 like yours, one -- part of your business, and then, you would

10:49:12 17 take those dollars and sell those dollars to clients of yours?

10:49:16 18 A. Yes.

10:49:17 19 Q. That want to buy dollars?

10:49:18 20 A. Yes.

10:49:18 21 Q. To turn those dollars into pesos. And then, you wire the

10:49:24 22 pesos to somewhere in the United States?

10:49:27 23 A. I buy the U.S. wire to send it to the U.S.

10:49:34 24 Q. And you buy the U.S. wire with pesos?

10:49:36 25 A. Yes, sir.

10:49:37 1 Q. Why is that?

10:49:39 2 A. Because my business is buying and selling dollars and to buy

10:49:46 3 -- to buy dollars, I need pesos. I cannot pay dollars with

10:49:50 4 dollars.

10:49:53 5 Q. Okay. So you -- but you use the pesos to wire to the United

10:49:57 6 States?

10:49:57 7 A. Yes, sir.

10:49:58 8 Q. All right. And that's something you do routinely in your

10:50:01 9 business?

10:50:01 10 A. Yes, sir.

10:50:02 11 Q. For real estate people and banks?

10:50:06 12 A. No, no. I have two different companies, real estate and

10:50:11 13 exchange house.

10:50:15 14 Q. Okay. Is there less exchange rate cost if you wire in pesos

10:50:29 15 to a U.S. bank or to a U.S. government?

10:50:32 16 A. Can you repeat the question, please?

10:50:33 17 Q. I'm trying to find out why you don't just wire dollars.

10:50:36 18 A. Because it's -- I cannot -- to buy a wire transfer, I need

10:50:42 19 pesos.

10:50:42 20 Q. Oh, okay. What you were doing for Mr. Villarreal and other

10:50:50 21 customers that you had is they would bring you dollars, you

10:50:55 22 change them to pesos, and then, you'd wire the pesos.

10:50:58 23 A. I buy dollars to wire dollars.

10:51:01 24 Q. You buy pesos.

10:51:03 25 A. I buy pesos with the dollar with the cash. Dollar cash,

10:51:03 1 okay?

10:51:07 2 Q. Yes.

10:51:08 3 A. And then, with the pesos that I receive with the selling of

10:51:11 4 the cash dollars.

10:51:12 5 Q. Right.

10:51:13 6 A. I buy a wire transfer to send a wire to the U.S.

10:51:17 7 Q. And when the wire comes to the U.S., does it come in pesos

10:51:21 8 or dollars?

10:51:21 9 A. In dollars, because I buy dollars that way with pesos.

10:51:28 10 Q. All right. I'm going to --

10:51:30 11 THE COURT: The rate changes all the time.

10:51:33 12 MR. DEGEURIN: Yes. I'm -- I just -- what I was going

10:51:36 13 to do, Judge, is pass the witness. Go down and sit down and ask

10:51:39 14 Mr. Andres Sanchez, what did I just learn, and he'll explain it

10:51:44 15 to me.

10:51:45 16 THE COURT: Well, let's do it after the jury break.

10:51:48 17 MR. DEGEURIN: Okay. Pass the witness.

10:51:51 18 CROSS-EXAMINATION

10:51:53 19 BY MR. WOMACK:

10:51:53 20 Q. Good morning, sir.

10:51:56 21 A. Good morning.

10:51:56 22 Q. I'm Guy Womack. I live in Houston, but I have an office in

10:51:59 23 McAllen. Monterrey is near McAllen, a few miles away from

10:52:04 24 McAllen?

10:52:04 25 A. Yes.

10:52:05 1 Q. So we understand how this exchange works, if someone comes
10:52:11 2 into your casa de cambios or your exchange house.

10:52:15 3 A. Yes.

10:52:16 4 Q. And have a U.S. address and they want to send U.S. dollars
10:52:18 5 by wire transfer to an American bank, a U.S. bank, you tell us
10:52:25 6 that first you have to take those U.S. dollars and convert them
10:52:27 7 into pesos?

10:52:28 8 A. Yes.

10:52:28 9 Q. And because you're a casa de cambios -- is that a good term
10:52:32 10 to use?

10:52:33 11 A. Yes.

10:52:33 12 Q. Because you operate a casa de cambios, when you convert from
10:52:37 13 dollars to pesos, regardless of exchange rate, you actually take
10:52:43 14 -- you actually adjust the exchange rate so that you make money
10:52:46 15 on that?

10:52:47 16 A. Yes, sir.

10:52:48 17 Q. Okay. So you make a profit when you exchange dollars for
10:52:51 18 pesos?

10:52:52 19 A. Yes, sir.

10:52:52 20 Q. And then, when you turn around and you take pesos and you
10:52:55 21 buy dollars to wire to America, you make money on that end, too,
10:53:01 22 as well?

10:53:01 23 A. Yes, sir.

10:53:02 24 Q. So by handling the money and making it go from dollars to
10:53:08 25 pesos back to dollars to wire to America, you actually get paid

10:53:11 1 twice on the exchange rate.

10:53:13 2 A. Yes.

10:53:14 3 Q. Okay. Now, you also told us that you were asked by the
10:53:17 4 government, how do you combat people coming in with drug proceeds
10:53:24 5 and converting that into pesos? And you told us that what you do
10:53:28 6 is you charge them a higher fee?

10:53:30 7 A. Yes, sir.

10:53:31 8 Q. So that they can still come in and get pesos and convert to
10:53:35 9 whatever.

10:53:36 10 A. Not with me, because I raise the top of the fee about 10
10:53:41 11 percent or 14 percent so they cannot come with -- they don't do
10:53:46 12 the exchange with me.

10:53:47 13 Q. Okay. Well, if I came into your casa de cambios in
10:53:53 14 Monterrey.

10:53:53 15 A. Yes.

10:53:53 16 Q. And I said, look, I just made a big drug deal, I've got a
10:53:57 17 million dollars U.S., I really made to convert this, and I need
10:53:59 18 to send it to America, okay? You would still let me do that, you
10:54:04 19 would just charge me a really high fee?

10:54:05 20 A. No. If you tell me that you're a drug dealer, I will not
10:54:09 21 receive your money.

10:54:11 22 Q. Well, you told us that you would accept it, you'd charge a
10:54:14 23 higher fee.

10:54:15 24 A. Well, if you are a drug dealer, no, because you are telling
10:54:21 25 me you're making drugs.

10:54:22 1 Q. Okay. So I come in there and I've got a bag of cash and I
10:54:27 2 just say, I've got a million dollars, I won't tell you where I
10:54:31 3 got it, but I want to convert it and wire it back to America
10:54:34 4 because I don't want to go across the border with it, will you do
10:54:37 5 it for me? You would, because I look suspicious, you might
10:54:40 6 charge me a high fee.

10:54:42 7 A. As I told you, just a few minutes ago, I do my investigation
10:54:47 8 and check that Ramiro Villarreal is --

10:54:49 9 Q. I'm sorry, I can't understand you. Can you say it a little
10:54:51 10 bit slower?

10:54:52 11 A. Okay. I told you a few minutes ago that when I -- a
10:55:03 12 exchanger makes my office and requests one kind of -- that kind
10:55:06 13 of transactions, I got to do my investigations before I send the
10:55:11 14 money.

10:55:11 15 Q. Okay. And what kind of investigation would you do if I walk
10:55:15 16 in and say, hey, I've got an American passport, I want to send
10:55:19 17 money back to my bank. What kind of investigation would you do?

10:55:23 18 A. To check the -- what you do for a living, to check your
10:55:29 19 background.

10:55:30 20 Q. Okay. And so, I tell you that, hey, I'm a brick mason.

10:55:39 21 A. A what?

10:55:40 22 Q. I'm a brick mason or I'm a professional fisher. Yeah. I'm
10:55:45 23 a professional fisherman, and here's a million dollars I got, I
10:55:49 24 just sold a load of tuna. Is that your investigation or do you
10:55:54 25 go check on tuna --

10:55:57 1 A. I check with the relatives and with all the people, the
10:55:59 2 internet and everything. I check all the details.

10:56:02 3 Q. I'm an orphan. I don't have any family.

10:56:05 4 A. I won't do the transaction.

10:56:08 5 Q. Well, then, who exactly -- tell us, who do you charge higher
10:56:10 6 fees to?

10:56:12 7 A. To the people that comes -- that people -- the people that
10:56:16 8 -- all my clients in Monterrey are relatives or friends of mine.

10:56:21 9 Q. Everybody comes in there that successfully gets money from
10:56:24 10 you is a relative or a friend of yours.

10:56:27 11 A. Yes. A friend.

10:56:28 12 Q. I would like to be your friend, but I'm an orphan fisherman
10:56:32 13 and I have a lot of money. Would you let me do this and I'll be
10:56:36 14 your friend for life?

10:56:37 15 A. No.

10:56:39 16 Q. Okay. Well, then, who of your relatives and friends do you
10:56:44 17 charge higher fees to? You told us you charge higher fees.

10:56:48 18 A. Yes. I try -- if they approach to my office and I don't --
10:56:54 19 it does not look -- the person don't look -- the person in a good
10:57:03 20 shape or a good way, I won't receive the money.

10:57:05 21 Q. Okay. But you told us there are people you do charge higher
10:57:09 22 fees to?

10:57:09 23 A. Yes.

10:57:10 24 Q. And are these lots of good friends?

10:57:13 25 A. Hold on. I will tell him that I will charge a higher fee,

10:57:19 1 and in that way, the guy won't do the transaction with me.

10:57:25 2 Q. But if he says, again, I'm your friend, the orphan

10:57:29 3 fishermen.

10:57:29 4 A. Never happened that way.

10:57:30 5 Q. And I'm asking if you're going to charge me a higher fee, if

10:57:34 6 I'm willing to pay it, you would accept it, right?

10:57:36 7 A. Yes. But never happened that way.

10:57:37 8 Q. Because I would know I could go to another one and do a

10:57:40 9 cheaper --

10:57:40 10 A. Maybe.

10:57:41 11 Q. And that's how you would combat doing this as you would just

10:57:46 12 charge a higher fee, correct?

10:57:48 13 A. In my office, yes.

10:57:56 14 THE COURT: Let me have counsel even here for a minute,

10:57:58 15 please.

10:58:02 16 MR. WOMACK: Your Honor. I have no further questions.

10:58:05 17 THE COURT: That's all right.

10:58:05 18 (At the bench, on the record.)

10:58:12 19 THE COURT: Back when I was in college and playing

10:58:16 20 basketball, they didn't have a no foul song.

10:58:21 21 MR. WOMACK: You told us your no foul song, we can't

10:58:23 22 get in the box.

10:58:24 23 THE COURT: That's right.

10:58:25 24 MR. WOMACK: But I think I can walk over there.

10:58:26 25 THE COURT: I think that you have violated the foul

10:58:31 1 song. You're too close. For one thing, you're cutting off the
10:58:34 2 vision of one or two of the jurors.

10:58:37 3 MR. WOMACK: Okay. I'll do that.

10:58:38 4 THE COURT: So I'll keep you handy. Start -- stay
10:58:43 5 parallel -- I'm not setting limits, but stay parallel to the end
10:58:47 6 of the government's table.

10:58:51 7 MR. WOMACK: Yes, sir.

10:58:52 8 THE COURT: Now, I'm going to look like I'm talking to
10:58:55 9 you, but I'm not. But I do appreciate the fact that you put that
10:58:59 10 windshield wiper up. Okay. Now y'all can resume trial.

10:59:08 11 MR. ESPER: It has a purpose, your Honor.

10:59:09 12 THE COURT: I know.

10:59:21 13 MR. WOMACK: Again, your Honor, we have no further
10:59:22 14 question.

10:59:23 15 THE COURT: Okay, sir. Mr. Esper.

10:59:26 16 CROSS-EXAMINATION

10:59:27 17 BY MR. ESPER:

10:59:27 18 Q. Thank you, your Honor.

10:59:28 19 Mr. Paez, did I understand you correctly to say that
10:59:33 20 you stopped doing business with Mr. Ramiro Villarreal in June or
10:59:43 21 July of 2009?

10:59:44 22 A. I don't remember exactly the year, but I think he was there
10:59:54 23 about in January. So I think that --

10:59:56 24 Q. Okay. Well, Government's Exhibit No. 400 shows this wire
11:00:00 25 transfer coming from you, your business, in September of 2009.

11:00:06 1 A. Yes.

11:00:06 2 Q. So you would have still been doing business with him at that

11:00:08 3 time?

11:00:08 4 A. Yes. Maybe until September. I don't remember -- summer of

11:00:12 5 2009, okay?

11:00:14 6 Q. Okay. But this is September of 2009?

11:00:17 7 A. Yes.

11:00:17 8 Q. I'm just trying to -- and I know this may be a little

11:00:20 9 difficult, but you vacillated between 2009 and 2010. Could you

11:00:26 10 have stopped in 2010 doing business with him?

11:00:28 11 A. No. Before 2010. About three or four months before he

11:00:32 12 died.

11:00:32 13 Q. Okay. So this document of September of 2009 was probably

11:00:37 14 one of the last --

11:00:38 15 A. Maybe.

11:00:38 16 Q. -- transactions you did with him?

11:00:39 17 A. Yes.

11:00:40 18 Q. Okay. This person who came in to see you back in 2007 was

11:00:50 19 Mr. Francisco Rodriguez, correct?

11:00:52 20 A. Yes, sir.

11:00:52 21 Q. And he is -- he was an established friend or client of

11:00:57 22 yours, correct?

11:00:58 23 A. Yes.

11:00:59 24 Q. At the time?

11:00:59 25 A. Yes.

11:01:00 1 Q. Okay. And he brings this individual with him named Ramiro
11:01:05 2 Villarreal and introduces him to you?

11:01:07 3 A. Yes.

11:01:07 4 Q. As a potential client, correct?

11:01:09 5 A. Yes, sir.

11:01:10 6 Q. And he basically vouches for Mr. Ramiro Villarreal, correct?

11:01:15 7 A. What vouches? Well, yes.

11:01:18 8 Q. Okay. But nevertheless, you do your own investigation about

11:01:24 9 Ramiro Villarreal?

11:01:24 10 A. Yes.

11:01:25 11 Q. And, of course, we all know that the internet, anybody can
11:01:30 12 put anything up on the internet, right?

11:01:32 13 A. Yes.

11:01:34 14 Q. But nevertheless, you do some investigation on the internet,
11:01:37 15 and you find out through the internet that Ramiro Villarreal is a
11:01:42 16 very good horse salesman or good salesman for horses?

11:01:48 17 A. Yes, sir.

11:01:49 18 Q. Okay. That's what there's some website out there that tells
11:01:54 19 you that, correct?

11:01:54 20 A. Yes.

11:01:55 21 Q. Okay. You don't have the capabilities that law enforcement,
11:01:59 22 either in the United States or Mexico, have to look into
11:02:03 23 somebody's background to see if they're under investigation, do
11:02:05 24 you?

11:02:05 25 A. Uh-huh. That's correct.

11:02:07 1 Q. Was that no, you don't have that?

11:02:09 2 A. I don't have that.

11:02:10 3 Q. Okay. But you do the best you can to try to make sure that

11:02:14 4 the person you're dealing with is not -- the money he's giving

11:02:19 5 you is not drug money, right?

11:02:21 6 A. That's correct.

11:02:21 7 Q. But it's not a hundred percent certain, correct?

11:02:24 8 A. Yes, sir.

11:02:24 9 Q. Okay. So Ramiro Villarreal now starts bringing you cash in

11:02:31 10 U.S. dollars that he's having wired to certain places in the

11:02:37 11 United States?

11:02:37 12 A. Uh-huh. Yes.

11:02:38 13 Q. And I believe one of them was 100,000, another was 70,000.

11:02:44 14 Those are pretty significant amounts, aren't they?

11:02:46 15 A. Yes.

11:02:46 16 Q. Did that raise your suspicion about, wait a minute, I wonder

11:02:53 17 if this guy's really on the legit or not?

11:02:57 18 A. Because I didn't know what was the amount -- the total

11:03:02 19 amount of -- quantities of horses that he bought. So that's why.

11:03:06 20 Q. You were still convinced he's buying horses and he's a

11:03:08 21 legitimate guy?

11:03:09 22 A. Yes.

11:03:10 23 Q. Okay. It was -- you said -- when was it that you thought

11:03:15 24 there was something suspicious about those transactions when this

11:03:21 25 case appeared in the newspapers?

11:03:23 1 A. No.

11:03:24 2 Q. When?

11:03:24 3 A. When "Paco" Rodriguez, Francisco Rodriguez didn't take the

11:03:31 4 -- didn't send me some U.S. dollars to do the wires, and then,

11:03:36 5 Ramiro called me and request me, what's happening with the wires?

11:03:41 6 Q. Okay. That's when you decided, I'm coming to the United

11:03:47 7 States and telling them what's going on?

11:03:48 8 A. No.

11:03:49 9 Q. Not then?

11:03:50 10 A. Not then.

11:03:51 11 Q. What caused you to come to the United States, meet with Mr.

11:03:55 12 Lawson and tell him, hey, look, I got clean hands in this thing?

11:04:00 13 A. In June last year.

11:04:01 14 Q. In June of last year. Did you read about something in the

11:04:05 15 newspaper?

11:04:05 16 A. Yes, sir.

11:04:06 17 Q. Okay. So when you read about something in the newspaper, it

11:04:11 18 apparently references Mr. Villarreal, doesn't it?

11:04:13 19 A. Yes, sir.

11:04:13 20 Q. And then, it goes off into your head, hey, wait a minute,

11:04:16 21 there's -- maybe I was wrong about this guy?

11:04:19 22 A. Yes.

11:04:19 23 Q. Correct? And now, you come to the FBI with your lawyer and

11:04:23 24 you tell him, hey, you know, Mr. Villarreal had me wire-transfer

11:04:28 25 these moneys?

11:04:29 1 A. Yes.

11:04:30 2 Q. But at the time, I thought he was a legitimate guy?

11:04:34 3 A. That's correct.

11:04:35 4 Q. Correct?

11:04:36 5 A. Yes.

11:04:36 6 Q. And I even did these background searches on him and they all

11:04:40 7 turned up that he was an on-the-square guy, right?

11:04:43 8 A. Uh-huh. Yes.

11:04:45 9 Q. And over this period, even though over this period of time,

11:04:49 10 you wired approximately three-and-one-half-million dollars from

11:04:56 11 your money exchange houses to various places in the United

11:05:00 12 States.

11:05:00 13 A. Can you repeat the question?

11:05:02 14 Q. Even though during this period of time, this two- or

11:05:07 15 three-year period of time, you wire-transferred \$3.5 million,

11:05:13 16 approximately, for Ramiro Villarreal?

11:05:16 17 A. Yes.

11:05:16 18 Q. Okay. But it wasn't until something appeared in the

11:05:20 19 newspapers that aroused your suspicion?

11:05:23 20 A. Yes.

11:05:24 21 Q. Up to that time, your suspicions were not aroused or -- by

11:05:29 22 Mr. Villarreal, correct?

11:05:31 23 A. Yes.

11:05:36 24 Q. Okay. Now, as a money exchange house, you -- there's a

11:05:42 25 number of money exchange houses in Mexico, correct?

11:05:44 1 A. Yes.

11:05:45 2 Q. And some of them are not as -- they're a lot more flexible

11:05:53 3 about exchanging money than perhaps you are, correct?

11:05:56 4 A. Yes.

11:05:58 5 Q. And one of the concerns with money exchange houses in Mexico

11:06:03 6 is that you may be exchanging dollars that are derived from drug

11:06:12 7 dealing, correct?

11:06:13 8 A. Yes.

11:06:13 9 Q. And is it your experience that if you charge a bigger fee, a

11:06:19 10 higher fee, someone who is possibly making their money illegally

11:06:25 11 isn't going to pay that fee?

11:06:26 12 A. Yes.

11:06:27 13 Q. Okay. But with Mr. Ramiro Villarreal, he obviously had you

11:06:36 14 convinced this was not drug money or proceeds from drug money?

11:06:42 15 A. Yes.

11:06:42 16 Q. So he didn't get clipped for that higher fee, correct?

11:06:47 17 A. That's correct.

11:06:47 18 Q. Now, you said something about there's a restriction of

11:06:51 19 \$5,000?

11:06:52 20 A. Right now.

11:06:52 21 Q. Right now.

11:06:53 22 A. Yes.

11:06:54 23 Q. When did that go into effect?

11:06:56 24 A. About a year and a half.

11:06:57 25 Q. Okay. So approximately in 2011, that went into effect?

11:07:01 1 A. Yes.

11:07:02 2 Q. That you could not take more than \$5,000 in U.S. currency?

11:07:06 3 A. Yes.

11:07:06 4 Q. And either exchange it or wire transfer?

11:07:09 5 A. Yes.

11:07:10 6 Q. Okay. But that wasn't the case in 2007, 2008, 2009, 2010?

11:07:16 7 A. That's correct.

11:07:17 8 Q. Okay. And, Mr. Paez, what is the extent of your education,

11:07:25 9 sir?

11:07:25 10 A. I'm a public accountant.

11:07:28 11 Q. Okay. And you received all your education in Mexico?

11:07:32 12 A. Yes.

11:07:32 13 Q. You're obviously fluent in English?

11:07:35 14 A. Well, I try to.

11:07:37 15 Q. Okay. Did you go to -- did you get your degree at

11:07:40 16 Monterrey?

11:07:40 17 A. Yes.

11:07:41 18 Q. Okay. And you also were involved in real estate

11:07:46 19 transactions?

11:07:47 20 A. Yes.

11:07:47 21 Q. Businesses?

11:07:48 22 A. Yes.

11:07:48 23 Q. Both in Mexico and in the United States?

11:07:50 24 A. Almost everything in Mexico.

11:07:52 25 Q. In Mexico?

11:07:53 1 A. Almost.

11:07:53 2 Q. So it would be fair to say -- and I don't want you to be

11:07:59 3 humble -- but you're fairly sophisticated as far as money, buying

11:08:02 4 stuff, correct?

11:08:06 5 A. Yes.

11:08:06 6 Q. Yeah. Okay. As opposed to someone who has no education.

11:08:16 7 A. Yes.

11:08:17 8 Q. Okay. May I have just a moment, your Honor?

11:08:20 9 THE COURT: You may.

11:08:33 10 Q. (BY MR. ESPER) Did you ask Mr. Villarreal -- and you may

11:08:38 11 have already answered this question -- why he couldn't get his

11:08:41 12 own bank account?

11:08:42 13 A. I didn't ask him.

11:08:45 14 Q. Okay. He volunteered that information?

11:08:46 15 A. Yes.

11:08:47 16 Q. Correct?

11:08:51 17 A. No.

11:08:54 18 Q. Okay. There was some comment that you made that Mr.

11:08:56 19 Villarreal never explained why he couldn't have his own bank

11:09:01 20 account.

11:09:01 21 A. No. I asked him, why you don't give me pesos. It's cheaper

11:09:05 22 for you. That's why. That's what I asked him. I never asked

11:09:09 23 him about how come.

11:09:11 24 Q. Okay. Because you were making a fee on the buying of the

11:09:17 25 dollars.

11:09:17 1 A. Yes.

11:09:18 2 Q. Pesos and then, buying back in dollars, correct?

11:09:21 3 A. Yes.

11:09:21 4 Q. That's all I've got, your Honor.

11:09:28 5 CROSS-EXAMINATION

11:09:29 6 BY MR. MAYR:

11:09:29 7 Q. So, Mr. Paez, if I've got this correct, you learned well

11:09:40 8 after the fact that these transactions that you were conducting

11:09:43 9 for Ramiro were possibly involving illegal funds, correct?

11:09:47 10 A. Yes, sir.

11:09:48 11 Q. But because you learned of it after the fact, you committed

11:09:54 12 no crime?

11:09:54 13 A. I think so.

11:09:55 14 Q. That's why you haven't been charged with anything, right?

11:09:57 15 A. Okay.

11:09:58 16 Q. Okay. Now, this Government's Exhibit 400 that was

11:10:02 17 previously introduced, this wasn't the only record of

11:10:05 18 transactions involving Ramiro that you provided to the

11:10:08 19 government, correct?

11:10:09 20 A. That's correct.

11:10:21 21 Q. I'm going to show you what I've marked as Defendant's

11:10:25 22 Exhibit JH-1. I'll have you take a look at each one of those

11:10:29 23 documents and tell me if you recognize them.

11:10:33 24 A. Yes.

11:10:34 25 Q. Okay. All of these documents, these are the other

11:10:39 1 transactions -- the other documents of transactions that you
11:10:42 2 provided to the government?

11:10:43 3 A. I don't remember -- I think so.

11:10:45 4 Q. Okay. These are that, correct?

11:10:49 5 A. Can I --

11:10:49 6 Q. Sure. Go ahead. Take your time.

11:10:51 7 A. Yes. I give them to them.

11:10:52 8 Q. Okay.

11:10:53 9 MR. GARDNER: Your Honor, we have no objection to
11:10:55 10 Defense Exhibit JH-1 being admitted.

11:11:00 11 THE COURT: Hearing no objections, Defendant's JH-1 is
11:11:05 12 admitted.

11:11:05 13 MR. MAYR: May I publish these to the jury, your Honor?

11:11:08 14 THE COURT: On the machine, sure.

11:11:18 15 Q. (BY MR. MAYR) Just so we're clear, there's a number of
11:11:21 16 transactions that were sent to a variety of individuals and
11:11:25 17 companies shown on these pages, correct? Can you see okay up
11:11:29 18 there, Mr. Paez?

11:11:30 19 A. Yes.

11:11:30 20 Q. Okay. We see here, one sent to Ruidoso Downs, correct?

11:11:42 21 A. Yes.

11:11:44 22 Q. And another one over here to Los Alamitos in California?

11:11:47 23 A. Yes.

11:11:48 24 Q. And a couple here, also sent to Heritage Place, just like
11:11:53 25 those other wire transfers we saw?

11:11:55 1 A. Yes.

11:11:55 2 Q. All right. When Ramiro first comes to you, you do this

11:12:12 3 cursory internet search to research his background, check?

11:12:15 4 A. Yes.

11:12:16 5 Q. And that would require some knowledge about how to use a

11:12:19 6 computer.

11:12:20 7 A. Uh-huh.

11:12:21 8 Q. So if you didn't know how to use the computer or how to use

11:12:27 9 the internet, it would be difficult to conduct these rigorous

11:12:30 10 background searches that you're conducting on these individuals,

11:12:33 11 right?

11:12:34 12 A. Right.

11:12:34 13 Q. No further questions, your Honor.

11:12:37 14 THE COURT: Any redirect?

11:12:40 15 MR. GARDNER: One moment, your Honor.

11:12:49 16 RE-DIRECT EXAMINATION

11:12:49 17 BY MR. GARDNER:

11:12:57 18 Q. Now, Mr. Paez, this document that Mr. Mayr showed you, JH-1,

11:13:03 19 Defense Exhibit JH-1, as you explained, there are two different

11:13:11 20 places, right? Were these all directed by Mr. Villarreal to you

11:13:15 21 to make those payments?

11:13:17 22 A. Actually, I don't remember if this one -- did I give these

11:13:23 23 to you?

11:13:23 24 Q. Yes. I believe you did, sir.

11:13:25 25 A. Yes. This is Ramiro gave me those instructions.

11:13:27 1 Q. And for each one of these that Mr. Mayr showed you.

11:13:30 2 A. Yes.

11:13:30 3 Q. Did Mr. Ramiro Villarreal ever explain to you why he

11:13:34 4 couldn't make these transactions himself?

11:13:36 5 A. No. He just told me some -- there were some payments that

11:13:40 6 he has to do.

11:13:42 7 Q. Are you aware if there's any law that restricts the amount

11:13:46 8 of U.S. dollars you can bring into the United States?

11:13:49 9 A. Yes.

11:13:50 10 Q. And what is that here?

11:13:52 11 A. \$10,000.

11:13:53 12 Q. \$10,000. Now, Mr. Esper asked you, and I believe Mr. Mayr

11:14:01 13 did, whether you knew that Mr. Ramiro Villarreal was, quote,

11:14:05 14 legit or not. Do you remember that series of questions?

11:14:15 15 A. Yes. I remember.

11:14:16 16 Q. Okay. And when I was asking you questions, we talked about

11:14:21 17 an incident in which Mr. Francisco Rodriguez stole money from Mr.

11:14:26 18 Villarreal?

11:14:27 19 A. Yes.

11:14:27 20 Q. That occasion, did that give you any suspicion that Mr.

11:14:31 21 Ramiro Villarreal's business might not be legit?

11:14:35 22 A. Yes.

11:14:36 23 Q. And why is that, sir?

11:14:37 24 A. Because after Ramiro spoke with Francisco, he spoke with me

11:14:44 25 and he told me, "Paco" doesn't know with who he's dealing with.

11:14:51 1 That money's not mine, it is from other people.

11:14:54 2 Q. And did Mr. Villarreal identify the other people?

11:14:56 3 A. No.

11:14:57 4 Q. Pass the witness, your Honor.

11:15:02 5 MS. WILLIAMS: No questions.

11:15:04 6 THE COURT: Any further questions of this witness?

11:15:07 7 MR. DEGEURIN: No, your Honor.

11:15:08 8 THE COURT: All right.

11:15:09 9 MR. WOMACK: One brief area, your Honor.

11:15:11 10 RE-CROSS EXAMINATION

11:15:11 11 BY MR. WOMACK:

11:15:13 12 Q. Sir, in answer to a couple of the last questions by the

11:15:16 13 government, you said that there's a limit as to how much money,

11:15:19 14 cash someone can bring into America.

11:15:21 15 A. Less than \$10,000. If --

11:15:27 16 Q. If I wanted to bring in a million dollars cash?

11:15:29 17 A. You can, but you have to declare it.

11:15:30 18 Q. Yes. I can bring in any amount of cash. I just have to

11:15:33 19 declare --

11:15:33 20 A. Yes.

11:15:34 21 Q. -- that I'm bringing it, correct?

11:15:35 22 A. Yes.

11:15:35 23 Q. So when you told the jury that you can't bring more than

11:15:39 24 \$10,000 cash, that's not correct, is it?

11:15:41 25 A. Yes. That's -- yes.

11:15:43 1 Q. You could bring any amount as long as you declare it?

11:15:46 2 A. As long as you declare it. Yes. That's correct.

11:15:48 3 Q. And among the family and friends that you have done business

11:15:51 4 for, are some of them jewellers?

11:15:54 5 A. Yes.

11:15:55 6 Q. And you know that jewellers when they travel from America to

11:15:58 7 Mexico to buy jewels and gold, they always use cash, don't they?

11:16:03 8 A. I don't know.

11:16:04 9 Q. They've told you they can bargain better if they have cash

11:16:07 10 and can hand it to the person selling the gold?

11:16:10 11 A. Yes.

11:16:10 12 Q. Okay. Thank you. No further questions.

11:16:15 13 MR. ESPER: That's it.

11:16:17 14 MR. MAYR: Nothing further, your Honor.

11:16:18 15 THE COURT: May this witness be excused? You may be

11:16:22 16 excused, sir.

11:16:26 17 MR. GARDNER: May I call my next witness, your Honor?

11:16:27 18 THE COURT: You may.

11:16:28 19 MR. GARDNER: Thank you. Government calls Mr. Bill

11:17:03 20 Price.

11:17:24 21 (Witness sworn.)

11:17:40 22 THE COURT: Sir, tell us your full name, please, sir,

11:17:51 23 and spell your last.

11:17:53 24 THE WITNESS: Billy Bob Price, P-R-I-C-E.

11:17:56 25 THE COURT: You may proceed.

11:17:57 1 BILLY BOB PRICE, called by the Government, duly sworn.

11:17:57 2 DIRECT EXAMINATION

11:17:57 3 BY MR. GARDNER:

11:17:58 4 Q. Thank you, your Honor.

11:17:59 5 Mr. Price, you and I have met before; is that correct,

11:18:01 6 sir?

11:18:01 7 A. Yes, sir.

11:18:02 8 Q. Could you turn to the jury, tell them how old you are, and

11:18:05 9 what you do for a living, and where you're from?

11:18:07 10 A. I'm 76. And I race horses. I'm a breeder and a racer.

11:18:16 11 Q. And where are you from, sir?

11:18:18 12 A. Oklahoma.

11:18:18 13 Q. And do you have a small horse operation in Oklahoma?

11:18:22 14 A. Yes, sir.

11:18:22 15 Q. And you said earlier, you race and breed horses. How long

11:18:26 16 have you been doing that?

11:18:27 17 A. Oh, since the '90s. I would think.

11:18:32 18 Q. Sir, do you need a cup of water?

11:18:34 19 A. Do what, sir?

11:18:35 20 Q. Do you need a cup of water, sir?

11:18:37 21 A. Yes, please.

11:18:53 22 Q. I'm sorry. I think the last question was, what is the

11:18:59 23 extent of your horse operation, your quarter horse operation?

11:19:04 24 A. What do you mean by that?

11:19:06 25 Q. Well, you said you've been racing and breeding for 30 years.

11:19:09 1 A. Yes, sir.

11:19:10 2 Q. How many horses do you generally race per year?

11:19:15 3 A. Raise?

11:19:17 4 Q. Race, I'm sorry.

11:19:18 5 A. Race?

11:19:18 6 Q. Yes, sir. Quarter-horse racing.

11:19:20 7 A. This year, I've probably got twelve on the track.

11:19:25 8 Approximately twelve.

11:19:26 9 Q. And now, how many do you raise each year?

11:19:31 10 A. I try to raise 15 or 20.

11:19:34 11 Q. And do you do your own breeding at your operation?

11:19:38 12 A. No, sir.

11:19:38 13 Q. And who does that for you?

11:19:40 14 A. I send them out to different stallion farms.

11:19:45 15 Q. You also mentioned to me that you are a participant in what

11:19:51 16 they call a syndicate.

11:19:54 17 A. Yes.

11:19:54 18 Q. Can you explain that to the jury, please?

11:19:57 19 A. Well, what they do, they take a high-dollar horse and

11:20:02 20 they'll sell -- you'll buy shares in him and you'll -- one share,

11:20:10 21 you get two breedings a year for one share. And a half a share,

11:20:15 22 you get one breeding a year. And these horses is quite

11:20:22 23 expensive. That's why they syndicate them out like that.

11:20:24 24 Q. And what horses do you own shares in?

11:20:28 25 A. Corona Cartel and First Down Dash, Wave Carver.

11:20:35 1 Q. And with respect to Corona --

11:20:37 2 A. And FDD Dynasty. FDD Dynasty, I forgot him.

11:20:39 3 Q. And where is Corona Cartel being --

11:20:42 4 A. In Guthrie, Oklahoma at the Lazy E.

11:20:45 5 Q. Who's the manager of the Lazy E Ranch?

11:20:48 6 A. Butch Wise.

11:20:49 7 Q. And First Down Dash, I understand that horse is now dead; is

11:20:52 8 that correct?

11:20:52 9 A. He's -- yes. He's at Vessels Stallion Farm in California,

11:20:56 10 but we still have frozen semen.

11:20:58 11 Q. And it's possible to impregnate or make an embryo out of

11:21:04 12 semen?

11:21:04 13 A. Yes.

11:21:05 14 Q. And how much does a share of one of those types of race

11:21:08 15 horses cost?

11:21:13 16 A. I think, best I remember, First Down was about 150 and I

11:21:19 17 think Corona's about 150. And there's one more I own a part of a

11:21:25 18 share and that's Valiant Hero. I forgot about him.

11:21:28 19 Q. So when you say 150, that's 150,000?

11:21:31 20 A. Yeah. Yes, sir.

11:21:33 21 Q. And why did you purchase those particular bloodlines? I

11:21:39 22 know you've got a couple of others, but why do you purchase the

11:21:42 23 Corona Cartel share and the First Down Dash share?

11:21:46 24 A. Well, it's just what we call black type and I just had a

11:21:50 25 good feeling. So that's the ones I chose.

11:21:53 1 Q. And what goes into picking a horse for breeding?

11:21:57 2 A. The black type, what's called -- I guess you'd say the momma

11:22:02 3 and the grandma and the great-grandma and on down.

11:22:06 4 Q. And have those particular bloodlines for Corona Cartel and

11:22:10 5 First Down Dash proved good?

11:22:11 6 A. Yes.

11:22:13 7 Q. When I say good, how does that relate to their offspring?

11:22:18 8 A. Well, Corona Cartel, his breeding is selling for \$35,000

11:22:28 9 each.

11:22:29 10 Q. That's one breed?

11:22:30 11 A. One breeding.

11:22:33 12 Q. Now, do you also sell some of your horses, sir?

11:22:36 13 A. Yes.

11:22:36 14 Q. And I want to talk to you about two particular horses. The

11:22:39 15 first one is Snowy Cartel.

11:22:42 16 A. Yes.

11:22:42 17 Q. Did you have a horse called Snowy Cartel?

11:22:45 18 A. Yes.

11:22:45 19 Q. And did you sell that horse?

11:22:47 20 A. Yes.

11:22:48 21 Q. If you will, could you please let the ladies and gentlemen

11:22:51 22 of the jury know how you were contacted to sell that horse?

11:22:55 23 A. Well, I got a phone call and they asked me if I wanted to

11:23:03 24 sell it. If I had a Corona Cartel for sale, and I said yes.

11:23:08 25 Q. You said if I had a Corona Cartel for sale?

11:23:10 1 A. Yeah.

11:23:12 2 Q. So when you say if I had a Corona Cartel for sale, how does

11:23:15 3 that relate to the name of this horse Snowy Cartel?

11:23:19 4 A. Corona Cartel is his daddy. Snowy Cartel's daddy.

11:23:25 5 Q. So you were asked if you had any Corona Cartel babies in

11:23:29 6 your breeding?

11:23:30 7 A. Yes.

11:23:30 8 Q. And so, obviously Snowy Cartel is a Corona Cartel baby.

11:23:36 9 What happened then?

11:23:37 10 A. Yes. Well, they called me and I told them I did.

11:23:45 11 Q. And then, what happened after that?

11:23:48 12 A. Well, they come look. They said they'd come look. They

11:23:56 13 come looked.

11:23:56 14 Q. When you say "they."

11:23:58 15 A. Well, it was two or three of them. I don't know, two or

11:24:01 16 three people come look.

11:24:02 17 Q. And did you know their names?

11:24:04 18 A. No. No, sir.

11:24:05 19 Q. And did they look at all your -- let me back up. Did you

11:24:10 20 have more than just that one Corona Cartel offspring on your

11:24:16 21 ranch?

11:24:16 22 A. He's the only yearling Corona Cartel I had at that time.

11:24:21 23 Q. So when these individuals came, did they look at all your

11:24:24 24 offsprings, all your yearlings?

11:24:26 25 A. No, sir.

11:24:26 1 Q. And who did they just look at?

11:24:27 2 A. At Snowy Cartel.

11:24:29 3 Q. And did they eventually agree to purchase that horse?

11:24:33 4 A. Yes.

11:24:34 5 Q. And did you agree to sell that horse?

11:24:36 6 A. Yes.

11:24:37 7 Q. And what was the agreed-upon price?

11:24:38 8 A. \$70,000. But I agreed -- agreement when I sold him was over

11:24:46 9 the phone, not there.

11:24:48 10 MR. MAYR: Objection. Nonresponsive.

11:24:50 11 THE COURT: Okay. You're kind of peculiar here in the

11:24:55 12 room. Listen to the question and if you can answer the question

11:24:57 13 "Yes" or "No." But we've got a lot of lawyers, they're going to

11:25:02 14 have a lot of questions. So don't volunteer anything. Just

11:25:06 15 answer the question.

11:25:08 16 Q. (BY MR. GARDNER) So let me back up a little bit.

11:25:13 17 The first call you got about that horse, who called

11:25:17 18 you?

11:25:18 19 A. Randy Hill.

11:25:19 20 Q. And who is Randy Hill?

11:25:22 21 A. He works for Michael Pohl. He works for Michael Pohl. Or

11:25:29 22 agent for Michael Pohl, I guess maybe.

11:25:31 23 Q. And he also in the quarter horse business?

11:25:34 24 A. Yes.

11:25:34 25 Q. And when was this call, do you remember?

11:25:40 1 A. No. Not really. I don't remember the dates. No.

11:25:43 2 Q. What about the year? Do you remember the year, sir?

11:25:45 3 A. I guess it was '09.

11:25:47 4 Q. And how long after you received that call from Mr. Hill did

11:25:52 5 you meet with these other three individuals?

11:25:59 6 A. Probably eight to ten days.

11:26:03 7 Q. And then, did they offer you -- you may have mentioned it.

11:26:08 8 The deal was over the phone, so did you discuss the price when

11:26:11 9 they were looking at the horse Snowy Cartel?

11:26:18 10 A. I really don't remember. I don't think so.

11:26:23 11 Q. And so, did you finalize or seal the deal after they left at

11:26:30 12 another time later?

11:26:34 13 A. I just -- I don't remember it. I just don't remember when

11:26:41 14 they finally -- I guess they called me back and told me the deal

11:26:46 15 was -- Randy Hill. I don't know. I just don't remember it.

11:26:49 16 Q. And how was that horse paid for?

11:26:50 17 A. By wire transfer.

11:26:54 18 Q. I'm showing you Government's Exhibit 367. Do you see all

11:27:02 19 that, sir?

11:27:07 20 A. Okay. No. You want me to point? I can't see it.

11:27:16 21 Q. If you'll look right here.

11:27:17 22 A. Okay. Yeah.

11:27:18 23 Q. It's not a very good copy, is it?

11:27:26 24 A. Yes.

11:27:27 25 Q. Your Honor, I'd offer Government's Exhibit 367.

11:27:34 1 MR. FINN: No objection.

11:27:38 2 MR. WOMACK: No objection.

11:27:43 3 MR. DEGEURIN: No objection.

11:27:43 4 THE COURT: All right. 367 is received.

11:27:46 5 Q. (BY MR. GARDNER) Mr. Price, I put 367 up on the screen. You

11:27:50 6 can see it is pretty dark. I guess maybe better hand around the

11:28:05 7 box. But can you read what it says right here, sir? Is that too

11:28:08 8 difficult based on the shadow?

11:28:09 9 A. I really -- I see a Snowy Fling on there.

11:28:14 10 Q. Can you make out the word "wire transfer"?

11:28:16 11 A. Yeah. Yeah. I do there, yeah. I do there. Yes.

11:28:19 12 Q. And for the amount, can you make out 68,000?

11:28:21 13 A. 68,5, yes.

11:28:23 14 Q. 68,5? Is that the way you remember it was paid for that

11:28:26 15 horse?

11:28:26 16 A. Yes.

11:28:27 17 Q. Now, was that the agreed-on price, 68,5?

11:28:35 18 A. No. 70,000.

11:28:37 19 Q. So when they came to pick up the horse, did they have the

11:28:40 20 other 1,500 with them?

11:28:41 21 A. Yes.

11:28:41 22 Q. Now, you sold another horse called Snowy Fling?

11:28:49 23 A. Yes.

11:28:50 24 Q. What is the relation of Snowy Fling to Snowy Cartel?

11:28:54 25 A. Snowy Fling is the mother of Snowy Cartel.

11:28:58 1 Q. And how long after you sold Snowy Cartel were you approached
11:29:03 2 about selling Snowy Fling?

11:29:04 3 A. About three to four months. Two months maybe. Two to three
11:29:09 4 months.

11:29:10 5 Q. And was it the same group of individuals?

11:29:15 6 A. I don't know. They called. I don't know. They called when
11:29:22 7 they -- they called.

11:29:28 8 Q. To your knowledge, were they the same, these group of people
11:29:33 9 who purchased Snowy Cartel?

11:29:37 10 A. I don't know for sure.

11:29:40 11 Q. So how did that transaction come about? How were you
11:29:43 12 contacted and how did you come about selling Snowy Fling?

11:29:47 13 A. Well, I got a phone call and they said, we can get you
11:29:51 14 100,000 for Snowy Cartel -- Snowy Fling. And I said no. I'll
11:29:56 15 take 130. And he says, I'll get back with my people.

11:30:02 16 Q. And did you receive another call agreeing upon that price?

11:30:05 17 A. Yes.

11:30:06 18 Q. And to your knowledge, how was that payment originally going
11:30:10 19 to be made?

11:30:12 20 A. I don't guess we talked about it. They just called and
11:30:17 21 said, I'm on my way.

11:30:18 22 Q. And did you meet these individuals?

11:30:21 23 A. Yes.

11:30:21 24 Q. And where did you meet them, sir?

11:30:23 25 A. I met them at Exit 1 at Interstate 35.

11:30:27 1 Q. Is that Exit 1 just across the Texas-Oklahoma border?

11:30:31 2 A. Yes, sir.

11:30:31 3 Q. Is there a large casino there?

11:30:33 4 A. Yes, sir.

11:30:34 5 Q. And where did -- specifically did you meet them?

11:30:37 6 A. There at the gas station.

11:30:40 7 Q. And did you conclude the purchase for Snowy Fling at the gas

11:30:46 8 station, or did you go somewhere else?

11:30:47 9 A. No, sir. We went -- followed me to the house.

11:30:53 10 Q. And how were you paid for that horse?

11:30:54 11 A. Cash.

11:30:56 12 Q. And in what nature was that -- when you say cash, can you

11:31:00 13 tell the ladies and gentlemen of the jury?

11:31:01 14 A. Dollars or \$100 bills.

11:31:04 15 Q. And how were they packaged or wrapped?

11:31:07 16 A. It was in \$10,000 to a package.

11:31:16 17 Q. And was it the same individuals who came earlier to buy

11:31:19 18 Snowy Cartel?

11:31:21 19 A. I don't think so. No. I don't think so.

11:31:24 20 Q. Now, you're familiar being in the quarter horse industry

11:31:27 21 with registration, the purpose of a registration paperwork. Is

11:31:32 22 that a fair statement?

11:31:34 23 A. Yes.

11:31:35 24 Q. Each horse has its own essentially registration certificate?

11:31:39 25 A. Yes.

11:31:41 1 Q. And did you provide the registration certificate to that
11:31:45 2 individual picking up that horse?

11:31:48 3 A. You mean the one picking up the horse or brought the money?

11:31:51 4 Q. That's a good question. The one who brought the money.

11:31:53 5 A. Yes. I gave him, yes.

11:31:56 6 Q. And were you later contacted about that same registration
11:31:59 7 certificate?

11:31:59 8 A. Yes.

11:32:00 9 Q. And how long after you sold the horse did that occur?

11:32:06 10 A. I'd say about four months.

11:32:10 11 Q. And what did you do then?

11:32:11 12 A. I signed a -- they got a -- I guess you'd call it lost title
11:32:18 13 certificate or I don't -- you sign another certificate, and then,
11:32:22 14 they get a new certificate from AQHA.

11:32:26 15 Q. Now, sir, when the government contacted you on this case,
11:32:29 16 had you paid your taxes on that \$130,000 in cash?

11:32:32 17 A. When they first contacted me?

11:32:34 18 Q. Yes, sir.

11:32:35 19 A. No.

11:32:35 20 Q. All right. Have you since taken care of that issue with
11:32:37 21 your attorney?

11:32:38 22 A. Yes.

11:32:39 23 Q. May I have one moment, your Honor?

11:32:40 24 THE COURT: You may.

11:32:44 25 MR. GARDNER: Your Honor, I'll pass the witness.

11:32:46 1 CROSS-EXAMINATION

11:32:55 2 BY MS. WILLIAMS:

11:32:55 3 Q. Good morning, Mr. Price.

11:32:56 4 A. Howdy.

11:32:57 5 Q. My name is Christie Williams. I just have a couple of

11:33:00 6 questions for you.

11:33:00 7 A. Okay.

11:33:01 8 Q. I want to ask you about syndication. The government asked

11:33:05 9 you about these shares in these syndicates that you own. When a

11:33:12 10 horse owner syndicates the horse, how many shares do they sell?

11:33:20 11 A. Normally about 40, I would think.

11:33:25 12 Q. And so, I brought my calculator because I'm not super-good

11:33:28 13 at math.

11:33:32 14 If the owner of First Down Dash sold 40 shares in the

11:33:39 15 syndicate, then that owner made that year \$40 million -- I'm

11:33:50 16 sorry, 6 million?

11:33:52 17 A. I don't understand that.

11:33:53 18 Q. See, I told you I wasn't good at math.

11:33:56 19 \$6 million. 150,000 times 40, my calculator says

11:34:02 20 that's \$6 million.

11:34:03 21 A. Yeah, I guess it would.

11:34:04 22 Q. All right.

11:34:04 23 A. Yeah. Fine.

11:34:07 24 Q. And they do that -- the owner does that because that

11:34:10 25 obviously gives them a big influx of cash right then, so that's

11:34:16 1 good for them?

11:34:19 2 A. Well, they don't pay for all of it at once.

11:34:21 3 Q. Okay. That's what I was going to ask you. How do you pay

11:34:23 4 that out?

11:34:24 5 A. They get it paid out in three years.

11:34:28 6 Q. So over a three-year period, each shareowner paid \$50,000,

11:34:35 7 then the next year, \$50,000, and the next year, \$50,000.

11:34:39 8 A. Yeah. I really think First Down Dash, I might have been

11:34:43 9 wrong. I don't know correctly. I think his was \$75,000 down,

11:34:47 10 then \$50,000 for each year, I think. But I don't know.

11:34:51 11 Q. Regardless, it gets paid out over a couple of years?

11:34:54 12 A. Three years.

11:34:54 13 Q. And that gives the owner of the horse some money up front.

11:35:05 14 A. I suppose so. Yes.

11:35:06 15 Q. Okay. And what that does for you is for as long as that

11:35:10 16 horse is producing and you have a share in it, every year, you

11:35:15 17 get two babies?

11:35:18 18 A. If you own a share, yes.

11:35:20 19 Q. And you said it was two breedings. But just so the members

11:35:24 20 of the jury understand, if you breed the horse and you don't get

11:35:29 21 a baby, you get to breed it again.

11:35:33 22 A. If the stallion's alive.

11:35:36 23 Q. Not if it's frozen, right?

11:35:39 24 A. If it's frozen, you got one shot.

11:35:41 25 Q. As long as the stallion is alive and that's why we're doing

11:35:43 1 this so that we all get educated about how this works.

11:35:46 2 A. Okay.

11:35:47 3 Q. As long as the stallion is alive, you get to breed -- have

11:35:53 4 two mares bred to that horse every year and get two babies?

11:35:56 5 A. Yes, ma'am.

11:35:56 6 Q. All right. So as many breedings as it takes to get two

11:35:59 7 babies.

11:36:00 8 A. No. On First Down, I don't think so. I think -- well, I

11:36:06 9 don't know. I don't know about -- I just don't know. I can't

11:36:09 10 answer that.

11:36:10 11 Q. When you buy the share in the syndicate, the rules are set

11:36:17 12 out in the contract?

11:36:17 13 A. Yes.

11:36:18 14 Q. And so, you know what you're buying?

11:36:19 15 A. Yes.

11:36:19 16 Q. Okay. And so, when you as a horse breeder and you want to

11:36:34 17 race these horses, what you've done, your business model, if you

11:36:38 18 will, is you've bought shares in several really great stallions?

11:36:44 19 A. Yes.

11:36:45 20 Q. And you, I assume, have some really great mares?

11:36:50 21 A. Yes.

11:36:50 22 Q. And so, what you do is every year, you get those babies and

11:36:54 23 you pick out the best ones and train them and race them?

11:36:57 24 A. Try to.

11:36:59 25 Q. No further questions.

11:37:02 1 MR. DEGEURIN: No questions.

11:37:04 2 MR. WOMACK: Some cross, your Honor.

11:37:06 3 CROSS-EXAMINATION

11:37:07 4 BY MR. WOMACK:

11:37:07 5 Q. Mr. Price, I'm Guy Womack from Houston. How are you doing?

11:37:11 6 Can you hear me okay, sir?

11:37:12 7 A. Yes, sir.

11:37:13 8 Q. Do you know Fernando Garcia?

11:37:18 9 A. No, sir.

11:37:18 10 Q. He's standing right here. Fernando, if you'll stand up. Do
11:37:22 11 you remember him?

11:37:22 12 A. Not really.

11:37:23 13 Q. Do you recall meeting him, in fact, inviting him to your
11:37:26 14 ranch in Oklahoma?

11:37:27 15 A. Not really. No.

11:37:29 16 Q. You don't remember him going there and y'all talking about
11:37:31 17 bloodlines on horses in general?

11:37:33 18 A. Not really. No.

11:37:35 19 Q. Okay. You go to the big shows, don't you, like Heritage
11:37:39 20 Place, the sales, Los Alamitos --

11:37:42 21 A. I go to the sales. Yes, sir.

11:37:43 22 Q. Do you ever recall talking to Fernando at some of these
11:37:47 23 sales?

11:37:48 24 A. I don't remember it. No. I talked to a lot -- I don't
11:37:51 25 remember it. No. I might have. I don't know.

11:37:54 1 Q. Okay. Do you ever buy horses at the sales?

11:38:05 2 A. Yes, sir.

11:38:05 3 Q. And before you go to the sale like Heritage Place, you know

11:38:11 4 that they put online the names of the horses that are going to be

11:38:15 5 put up for sale at that auction about a month before the auction;

11:38:18 6 is that right?

11:38:19 7 A. I don't know.

11:38:20 8 Q. Have you ever looked at that site yourself?

11:38:22 9 A. No.

11:38:24 10 Q. But before you go to an auction, do you not research the

11:38:28 11 bloodlines of the horses that are going to be available for sale?

11:38:31 12 A. On what? Research on what?

11:38:34 13 Q. The bloodlines on those horses that will be for sale.

11:38:37 14 A. I look at the catalogs.

11:38:39 15 Q. Okay. Now, tell the jury what a catalog is.

11:38:42 16 A. It's the horse's name in there. Then it shows the momma and

11:38:47 17 the daddy and the grandma and the great-grandma and on down.

11:38:51 18 Then at -- starting at the top of the page under the pedigree, it

11:39:02 19 will list First Down, and what she has produced, and how much

11:39:07 20 money is made. Then we're going down to the second dam and do

11:39:12 21 the same thing. Then if there's room on the page, we'll go to a

11:39:16 22 third.

11:39:17 23 Q. So basically by getting this catalog of the horses for sale,

11:39:21 24 you can look at the bloodlines, you can research the horse

11:39:25 25 looking at that book, can't y'all?

11:39:27 1 A. Yes.

11:39:27 2 Q. Now, how long before the big sales do you get that catalog?

11:39:37 3 You personally.

11:39:37 4 A. Probably 30 days. I don't -- probably 30 days.

11:39:40 5 Q. Okay. And, again, were you aware you could do the same

11:39:44 6 thing online, as well?

11:39:45 7 A. No.

11:39:47 8 Q. But when you do it, you do it looking through actual paper

11:39:51 9 catalog; is that right?

11:39:52 10 A. Yes.

11:39:52 11 Q. And if you know you're going to a big sale, Heritage Place,

11:39:58 12 how long before the sale do you personally start looking at that

11:40:03 13 catalog?

11:40:04 14 A. I start looking after the day I get it.

11:40:06 15 Q. Okay. So a month or so before the sale?

11:40:08 16 A. Yeah.

11:40:09 17 Q. And that helps you determine if there are horses there that

11:40:13 18 by their bloodline may be of interest to you?

11:40:16 19 A. Yes.

11:40:16 20 Q. And you'd agree with us that the better the bloodline -- I

11:40:22 21 mean, at horse racing, the bloodline is a very important factor,

11:40:25 22 isn't it?

11:40:26 23 A. Yes.

11:40:26 24 Q. And if you know a horse comes from a good sire and dam with

11:40:32 25 a long history of great horses, that may be a more valuable horse

11:40:38 1 than other horses with a lesser bloodline?

11:40:40 2 A. It's a good possibility.

11:40:42 3 Q. And especially if it's a horse that you could syndicate, you

11:40:46 4 know, where you could actually sell these shares, it needs to

11:40:49 5 have a really good bloodline, correct?

11:40:51 6 A. Yes.

11:40:52 7 Q. Now, in addition to looking at the catalog starting a month

11:40:55 8 before the show, do you go to the actual site of the show to the

11:41:00 9 stables and look at the horse before the show?

11:41:03 10 A. Sometimes.

11:41:04 11 Q. And sometimes when you do that, you'll have a stable boy or

11:41:07 12 someone actually have the horse walk by you, won't it?

11:41:11 13 A. Yeah. Yes.

11:41:12 14 Q. And tell us, what are you looking for when you have them

11:41:15 15 walk the horse?

11:41:18 16 A. You're just looking at the horse, in general, from his feet

11:41:21 17 to his back and his disposition.

11:41:26 18 Q. And these things, looking at his disposition, how he carries

11:41:32 19 himself, him or her, how they walk, looking at their back, their

11:41:36 20 front, their legs, everything about them, a knowledgeable

11:41:41 21 horseman can factor that in, along with other information, in

11:41:45 22 determining how valuable that horse might be, correct?

11:41:48 23 A. It helps a whole lot.

11:41:49 24 Q. And in addition to looking at the catalog for that month,

11:41:54 25 walking the horse by you, have you had occasion to have horses

11:41:58 1 X-rayed by the on-scene veterinarian?

11:42:01 2 A. Yes.

11:42:01 3 Q. That's a pretty good practice, too, isn't it?

11:42:04 4 A. Yes.

11:42:04 5 Q. Tell us why you would do that.

11:42:07 6 A. Well, I really don't know what they call OCDs in them and in

11:42:13 7 their joints and places, and the X-ray will show it up. And once

11:42:22 8 you start running that horse will show up and sometimes where the

11:42:28 9 OCDs are. I don't know what OCD is, but anyway.

11:42:31 10 Q. And you're calling it OCD?

11:42:33 11 A. I think that's what they call them.

11:42:34 12 Q. Like Oscar Charlie Delta?

11:42:35 13 A. I guess. I think that's what -- that's what we call them.

11:42:39 14 I don't know what they are.

11:42:39 15 Q. And these are basically defects or things that might cause

11:42:42 16 problems in the horse if undetected?

11:42:44 17 A. It could, but it don't always. No.

11:42:46 18 Q. Okay. But certainly if you have the -- if you paid the

11:42:50 19 veterinarian to X-ray the horse at the sales, that gives you some

11:42:55 20 more information that you may or may not want to buy that horse?

11:42:58 21 MR. GARDNER: Your Honor, at this point, I'm going to

11:43:00 22 object to the relevance of this line of questioning.

11:43:04 23 MR. WOMACK: Your Honor, it was one of the very first

11:43:06 24 questions that Mr. Price answered. He said he buys these horses,

11:43:10 25 I think he said, by instinct. I want to show that his instincts

11:43:13 1 are based on a lot of science.

11:43:16 2 THE COURT: Well, let's proceed.

11:43:18 3 MR. WOMACK: Thank you, sir.

11:43:19 4 Q. (BY MR. WOMACK) Mr. Price, well, that's really it. You told

11:43:23 5 us you have instincts on horses, don't you?

11:43:26 6 A. Uh-huh.

11:43:26 7 Q. That's a "Yes"?

11:43:27 8 A. Yes.

11:43:27 9 Q. You nodded your head but the record has to --

11:43:30 10 A. Oh.

11:43:31 11 Q. You're doing great, sir.

11:43:33 12 And part of what gives you these great instincts is

11:43:37 13 that you get all the available information on a horse before you

11:43:40 14 bid on it, don't you?

11:43:43 15 A. You get it or you know it. Or you know it or you think you

11:43:48 16 know it.

11:43:48 17 Q. Yes, sir. And, sir, you've heard the expression beauty is

11:43:53 18 in the eye of the beholder?

11:43:55 19 A. Yes, sir.

11:43:57 20 Q. You've heard of that?

11:43:58 21 A. Yeah.

11:43:59 22 Q. And with regards to evaluating a horse, appraising a horse

11:44:03 23 to buy at auction, applying that same idea, for some people, a

11:44:10 24 horse when they get all the information, a horse may be worth

11:44:13 25 more money to that person than to other people, correct?

11:44:17 1 A. Well, yeah. Yes.

11:44:19 2 Q. In other words, you may see a horse and from your research

11:44:23 3 learn that it has OCDs. You may look back and say, well, you

11:44:28 4 know, the sire hasn't always been that good, and you may see some

11:44:32 5 things that make you think that horse is not worth as much as

11:44:36 6 someone else who doesn't really know, and they may value the

11:44:38 7 horse higher than you would.

11:44:38 8 A. That's true.

11:44:40 9 Q. And the reverse is also true, isn't it?

11:44:43 10 A. True.

11:44:43 11 Q. You've had people offer you too little for your horse,

11:44:47 12 haven't you?

11:44:47 13 A. Yes.

11:44:47 14 Q. And you've turned them down because you know it's worth more

11:44:50 15 money.

11:44:51 16 A. You think it is.

11:45:04 17 Q. And ultimately, a horse is worth what people will pay for

11:45:07 18 it, isn't it?

11:45:08 19 A. It's true.

11:45:10 20 Q. And they pay for it both buying the horse, winnings the

11:45:14 21 horse might have, its value for a stallion for its semen, a mare

11:45:21 22 for -- all of them for their bloodlines. There are a lot of

11:45:24 23 things you factor into the value of a horse, isn't there?

11:45:26 24 A. Yes.

11:45:27 25 Q. Thank you, sir. Sir, we have no further questions.

11:45:31 1 MR. ESPER: Your Honor, I just have a couple of
11:45:33 2 questions.

11:45:33 3 CROSS-EXAMINATION

11:45:33 4 BY MR. ESPER:

11:45:36 5 Q. Mr. Price, you indicated that you like to raise, R-A-I-S-E,
11:45:41 6 about 15 to 20 horses per year?

11:45:44 7 A. Yes.

11:45:45 8 Q. Okay. And is that with -- with the following year, would
11:45:49 9 that be another 15 to 20?

11:45:51 10 A. Yes.

11:45:51 11 Q. Okay. So in any -- over a three-year period, you could have
11:45:55 12 anywhere from 45 to 60 horses there on your farm, correct?

11:46:00 13 A. Well, no. Not on the farm. I wouldn't have them there.

11:46:03 14 But I would be -- I would -- I'd have that many, yes.

11:46:09 15 Q. Okay. At your particular farm, you like to kind of limit it
11:46:14 16 to about 15 to 20, correct, per year?

11:46:19 17 A. I like to raise. I try to raise 15 or 20 per year.

11:46:23 18 Q. Per year?

11:46:24 19 A. Yes.

11:46:24 20 Q. Okay. But you don't keep that many on your particular --

11:46:28 21 A. No.

11:46:28 22 Q. At your stables, so to speak?

11:46:31 23 A. No.

11:46:32 24 Q. What's the most that you ever keep at your stables more or
11:46:35 25 less?

11:46:37 1 A. Well, when the babies is being -- probably 30, because the
11:46:44 2 babies is being born, then the yearlings hadn't went off to the
11:46:48 3 sales yet. Probably 30.

11:46:49 4 Q. Okay. And are your stables relatively considered small
11:46:53 5 stables or?

11:46:54 6 A. Oh, very small.

11:46:55 7 Q. Very small. Okay. Some stables keep up to a hundred,
11:47:00 8 right?

11:47:00 9 A. No. Very small.

11:47:00 10 Q. Yours is very small?

11:47:02 11 A. I mean, I consider it very small.

11:47:04 12 Q. Okay. Thank you, sir.

11:47:07 13 MR. MAYR: I have no questions, your Honor.

11:47:09 14 THE COURT: Any redirect?

11:47:10 15 MR. GARDNER: I have no followup, your Honor. May this
11:47:12 16 witness be excused?

11:47:12 17 THE COURT: Anybody object to his being excused?

11:47:15 18 MS. WILLIAMS: No, your Honor.

11:47:16 19 THE COURT: You could be excused.

11:47:18 20 THE WITNESS: Thank you.

11:47:31 21 THE COURT: Those of you who thought you wouldn't get
11:47:33 22 lunch, you will. Give you your lunch break. Let's start at
11:47:40 23 1:20. Remember the instructions. And have a nice lunch.

11:48:17 24 (Jury not present.)

11:48:19 25 THE COURT: We're in recess until 1:20.

13:14:42 1 (Lunch recess.)

13:17:03 2 THE COURT: Anything before we bring the jury in?

13:17:10 3 MR. GARDNER: Your Honor, my next witness is in

13:17:12 4 custody, so the marshal went to grab him.

13:18:01 5 THE COURT: I assume that all of those pictures are in

13:18:03 6 evidence.

13:18:03 7 MR. GARDNER: That is going to be a demonstrative

13:18:06 8 exhibit, Judge.

13:18:06 9 MS. FERNALD: It's a blowup of --

13:18:10 10 MR. GARDNER: I could offer these pictures in.

13:18:12 11 THE COURT: Well, I just don't want the jury coming in

13:18:14 12 and looking at them and say -- and the people saying they didn't

13:18:17 13 know they were there.

13:18:18 14 MR. DEGEURIN: Like me.

13:18:20 15 THE COURT: Like I.

13:19:27 16 Okay. Is everybody okay with that chart now?

13:19:31 17 MR. DEGEURIN: I have some reservations about the

13:19:33 18 writing on it. If they just show photographs.

13:19:36 19 THE COURT: Well, the jury's on their way, so if you

13:19:38 20 have some, tell Mr. Gardner, and then, we can get it at the next.

13:20:19 21 MR. DEGEURIN: I can take it up when they --

13:20:21 22 THE COURT: Oh, no, we'll do it right now.

13:20:23 23 MR. GARDNER: I don't have to show it right now, Judge.

13:20:33 24 (Jury present.)

13:21:14 25 THE COURT: Members of the jury, since we last met in

13:21:17 1 this room, has anybody attempted to talk to you about the case?

13:21:20 2 JURORS: No.

13:21:21 3 THE COURT: Have you talked to anyone about the case?

13:21:24 4 JURORS: No.

13:21:24 5 THE COURT: And have you learned anything at all about

13:21:27 6 the case, outside the presence of each other in this courtroom?

13:21:30 7 JURORS: No.

13:21:31 8 THE COURT: Thank you. Show negative responses to all

13:21:34 9 questions by all jurors.

13:21:35 10 You may call your next witness.

13:21:37 11 MR. GARDNER: Your Honor, prior to calling our next

13:21:40 12 witness, the government would like to offer a number of certified

13:21:42 13 photographs, previously provided to defense counsel.

13:21:47 14 The government has previously provided or entered into

13:21:50 15 evidence Government's Exhibit 335A, a picture of Miguel Trevino.

13:22:33 16 And the government has also previously admitted Government's

13:22:37 17 Exhibit 335B, Omar Trevino-Morales.

13:22:45 18 Your Honor, the government offers Exhibit 335C,

13:22:50 19 certified Texas Department of Public Safety license photo of

13:22:53 20 Zulema Trevino. Oh, I'm sorry, your Honor.

13:22:57 21 THE COURT: I've got 335C and 335I, admitted without

13:23:03 22 objection. I have 335E, which is Mr. Nayen, admitted. Ms. Sims,

13:23:12 23 do you have 335?

13:23:16 24 THE CLERK: I have what you have.

13:23:17 25 THE COURT: Those are what we have.

13:23:26 1 MR. GARDNER: Give me one second, your Honor. I have
13:23:28 2 Ms. Fernald looking for one.

13:23:29 3 So 335E is a certified immigration photo, your Honor,
13:23:33 4 of Carlos Nayen. I believe that's already been admitted into
13:23:36 5 evidence.

13:23:36 6 THE COURT: Yes, sir. That's been admitted. E, C and
13:23:40 7 I are admitted.

13:23:42 8 MR. GARDNER: And, your Honor, just -- understanding
13:23:44 9 I'm just admitting the full document. I'm only showing the jury
13:23:47 10 the picture of the full document as a Texas Department of Public
13:23:50 11 Safety certified on 335C of Jose Trevino.

13:24:01 12 THE CLERK: We have that already admitted.

13:24:10 13 MR. GARDNER: And Government's Exhibit 335D is a
13:24:14 14 certified Texas Public Department of Safety photo of Zulema
13:24:21 15 Trevino.

13:24:23 16 THE CLERK: I don't have D yet.

13:24:24 17 THE COURT: Yeah. He's just identifying them. All
13:24:33 18 right. Any objections to 335C and 335D?

13:24:38 19 MS. WILLIAMS: D's already admitted.

13:24:41 20 MR. GARDNER: A, B and C are admitted, your Honor. I'm
13:24:44 21 offering D.

13:25:00 22 THE COURT: I don't have A, B, C.

13:25:02 23 THE CLERK: Yeah. They were admitted yesterday.

13:25:26 24 THE COURT: Any objection to D? All right. Then 335,
13:25:30 25 so the record is clear, A, B, C, D and E are admitted, and I. A,

13:25:40 1 B, C, D, E and I. Okay.

13:26:06 2 MR. GARDNER: Could you publish D? And, your Honor,
13:26:14 3 you say Government's Exhibit E is already admitted? 335E?

13:26:17 4 THE COURT: E and I were introduced as -- and
13:26:26 5 identified by Mr. Vasquez, Sr., but they were not identified.

13:26:34 6 MR. GARDNER: Then we would offer Government's Exhibit
13:26:35 7 335E with the identification certification for Carlos Nayen. And
13:26:42 8 with the agreement of the defense counsel, we've agreed to remove
13:26:46 9 the biographical data on that exhibit and submit the picture
13:26:51 10 only.

13:26:51 11 THE COURT: All right. And then, I?

13:26:56 12 MR. GARDNER: Could you publish E, please? And Mr.
13:27:02 13 DeGeurin is currently looking over 335F, your Honor.

13:27:07 14 MR. DEGEURIN: With regard to F, it's just a very bad
13:27:11 15 photograph. I'd like to substitute Mr. --

13:27:16 16 MS. FERNALD: It's the one we have on record from the
13:27:19 17 State Department.

13:27:20 18 MR. DEGEURIN: I could give you a better photograph.

13:27:22 19 MR. GARDNER: If you can submit your own. I'll allow
13:27:26 20 you to submit your own.

13:27:27 21 MR. DEGEURIN: Okay. Sorry. Thank you.

13:27:29 22 MR. GARDNER: Your Honor, we'd offer Government's
13:27:31 23 Exhibit 335F, a certified immigration photograph of Defendant
13:27:35 24 Francisco Colorado-Cessa.

13:28:01 25 THE COURT: He's going to substitute a picture.

13:28:03 1 MR. GARDNER: I believe he's going to offer his own
13:28:04 2 photograph, your Honor, during his case presentation.
13:28:08 3 THE COURT: Okay.
13:28:26 4 MR. GARDNER: Has that been received, your Honor?
13:28:28 5 THE COURT: Well, you've offered F, he's holding it and
13:28:31 6 he's going to offer his own.
13:28:32 7 MR. DEGEURIN: Yes.
13:28:33 8 THE COURT: So I'm going to make one of these mystic
13:28:37 9 orders. I'm going to admit a photograph of the Defendant
13:28:44 10 Colorado and then, if you're going to substitute it or whatever
13:28:48 11 you want to do it. Are you going to -- are you offering yours?
13:28:53 12 MR. GARDNER: Yes, sir.
13:28:53 13 THE COURT: And then, you can put in yours. Everybody
13:28:57 14 will be happy. All right. F is received.
13:28:59 15 MR. GARDNER: Could you publish F, please? Your Honor,
13:29:13 16 we offer Government's Exhibit 335G, a Texas Department of Public
13:29:16 17 Safety photograph of Defendant Fernando Solis-Garcia.
13:29:24 18 MR. WOMACK: No objections.
13:29:25 19 THE COURT: All right. G is received.
13:29:45 20 MR. GARDNER: Your Honor, we offer Government's Exhibit
13:29:48 21 335H. May I have one second, your Honor? H, your Honor, is a
13:30:23 22 Texas Department of Public Safety photograph of Victor Lopez.
13:30:33 23 THE COURT: Any objection to H? All right. 335H is
13:30:39 24 received.
13:30:44 25 MR. GARDNER: Your Honor, I believe the Court has

13:30:47 1 already admitted 335I, but I'd like to admit the immigration
13:30:51 2 certification for Sergio Rincon on 335I. Could we publish that,
13:30:59 3 please, Ms. Saldana?

13:30:59 4 THE COURT: Is Rincon?

13:31:00 5 MR. GARDNER: Rincon, yes, sir, your Honor.

13:31:05 6 THE COURT: All right.

13:31:06 7 MR. GARDNER: Offer Government's Exhibit 335J,

13:31:08 8 California Transportation Department certified photograph of one

13:31:17 9 Adan Farias.

13:31:17 10 THE COURT: How do you spell that?

13:31:20 11 MR. GARDNER: Adan is spelled A-D --

13:31:21 12 THE COURT: No. I know how to spell --

13:31:23 13 MR. GARDNER: Yes, sir. Farias is F-A-R-I-A-S.

13:31:31 14 Offer Government's Exhibit 335K, certified photograph

13:31:35 15 of Defendant Eusevio Maldonado-Huitron. Publish, please, Farias.

13:31:55 16 MR. ESPER: I don't have any.

13:31:58 17 MR. GARDNER: I'm sorry, is 335K received?

13:32:02 18 THE COURT: Mr. Huitron, is that Eusevio?

13:32:08 19 MR. GARDNER: Eusevio. Yes, sir.

13:32:10 20 THE COURT: Okay. Yes. It's received.

13:32:12 21 MR. GARDNER: Can we publish that? Government's

13:32:15 22 Exhibit 335L from California Department of Transportation --

13:32:23 23 Motor Vehicles, rather, photograph of Felipe Quintero.

13:32:41 24 THE COURT: Hearing no objection, 335L will be

13:32:46 25 admitted. Last name on that one?

13:32:47 1 MR. GARDNER: Quintero, your Honor, Q-U.

13:32:51 2 Government offers 335M, the Texas Department of Public

13:32:58 3 Safety certified photograph of Raul Ramirez.

13:33:18 4 THE COURT: M is received.

13:33:20 5 MR. GARDNER: Government's Exhibit 335N, certified

13:33:26 6 photograph of Luis Gerardo Aguirre.

13:33:45 7 THE COURT: It's received.

13:33:47 8 MR. GARDNER: And Government's Exhibit 335P, Texas

13:33:52 9 Department of Public Safety photograph of Jesus

13:33:55 10 Maldonado-Huitron.

13:34:11 11 THE COURT: P is received.

13:34:12 12 MR. MAYR: Judge, as to that exhibit, I would object.

13:34:17 13 Relevance. There's been no testimony identifying my client.

13:34:20 14 There's been no testimony regarding my client at all up until

13:34:23 15 this point. I would rather wait until -- therefore, it's not

13:34:27 16 relevant.

13:34:29 17 THE COURT: Wait, therefore, when it's not relevant.

13:34:32 18 MR. MAYR: At this time, it's not relevant. There's

13:34:34 19 not --

13:34:35 20 THE COURT: I understand your objection, but I think

13:34:37 21 you threw a "not" in there that you didn't mean to do that. In

13:34:41 22 any event, your objection is overruled. P is in evidence.

13:35:08 23 MR. GARDNER: Your Honor, I'd handing the certified

13:35:12 24 copies to the clerk, keeping the photographs at counsel table.

13:35:15 25 THE COURT: Okay.

13:35:16 1 MR. GARDNER: Your Honor, I would call Gerardo Mata as
13:35:25 2 our next witness.

13:35:34 3 (Witness sworn.)

13:36:04 4 THE COURT: I want you to state your full name and
13:36:16 5 spell your last name.

13:36:18 6 THE WITNESS: Gerardo Mata-Morales.

13:36:32 7 THE COURT: It's your witness.

13:36:35 8 GERARDO MATA-MORALES, called by the Government, duly sworn.

13:36:35 9 DIRECT EXAMINATION

13:36:35 10 BY MR. GARDNER:

13:36:35 11 Q. Thank you, your Honor.

13:36:36 12 Mr. Mata, you and I have met before; is that correct?

13:36:40 13 A. Yes.

13:36:41 14 Q. If you will, could you turn to the jury, introduce yourself,
13:36:45 15 tell them how old you are, and what you did for a living?

13:36:57 16 A. Good afternoon, jury. Before, I used to work transporting
13:37:13 17 cars and here I am. Good afternoon.

13:37:16 18 Q. When you say here you are, you're currently in jail?

13:37:23 19 A. Yes.

13:37:24 20 Q. And are you currently on loan from the Bureau of Prisons?

13:37:29 21 A. Uh, what?

13:37:38 22 Q. Good question.

13:37:40 23 Prior to coming here to court, were you at the Bastrop
13:37:43 24 Federal Correctional Institute?

13:37:48 25 A. Oh, yes. Uh-huh.

13:37:50 1 Q. And what were you in jail for?

13:37:53 2 A. Oh, for money laundering and drugs, cocaine.

13:38:02 3 Q. And what was your sentence?

13:38:04 4 A. 135 months.

13:38:11 5 Q. And was this out of the Eastern District of Texas, up in the

13:38:14 6 Plano area?

13:38:19 7 A. Yes.

13:38:22 8 Q. So what do you hope to get out of your testimony here today?

13:38:32 9 A. No. I don't hope for anything.

13:38:34 10 Q. And do you know that neither myself nor this judge will be

13:38:37 11 responsible for any part of your sentence?

13:38:47 12 A. Uh-huh. Okay.

13:38:48 13 Q. Do you know a person by the name of Mario Alfonso Cuellar?

13:38:55 14 A. Yes.

13:38:56 15 Q. Does he have a nickname?

13:38:59 16 A. "Poncho."

13:39:00 17 Q. I'm just going to ask you to refer to him as Mr. Cuellar

13:39:03 18 from here on out, if that's okay.

13:39:08 19 A. Okay. Uh-huh.

13:39:09 20 Q. So how do you know Mr. Cuellar?

13:39:17 21 A. I worked with him at a junkyard, auto parts, and I would

13:39:27 22 transport cars when he bought them at auction.

13:39:31 23 Q. From where to where would you transport the cars?

13:39:45 24 A. In the beginning, I transported from San Antonio to Eagle

13:39:49 25 Pass. Later, he sent me to Dallas.

13:39:51 1 Q. And did you eventually get involved in transporting money
13:39:54 2 for Mr. Cuellar?

13:40:12 3 A. Yes. I mean, I was working with him fine, just in the
13:40:17 4 transporting of cars. But then, he offered if -- he asked if I
13:40:21 5 wanted to earn more money.

13:40:23 6 Q. And did he tell you how you were going to earn more money?

13:40:40 7 A. He didn't say, but he did say that I had to pick up money in
13:40:43 8 San Antonio to Eagle Pass. This was in the beginning, right?

13:40:47 9 Q. Yes. In the beginning.

13:40:54 10 A. And then, later -- in the beginning. And then, later, he
13:41:00 11 sent me to Dallas to transport more money from Dallas to Eagle
13:41:05 12 Pass.

13:41:05 13 Q. And going back a little bit, when you say in the beginning,
13:41:09 14 do you recall a year when that started happening?

13:41:21 15 A. The beginning, about 2005.

13:41:23 16 Q. And what were the amounts that you were transporting from
13:41:26 17 San Antonio down to Eagle Pass?

13:41:34 18 A. 100,000, 150,000.

13:41:36 19 Q. And when did you start going to Dallas and transporting
13:41:41 20 money from Dallas?

13:41:53 21 A. Then later, about after a year, 2007, 2008, then I
13:41:58 22 transported more money.

13:42:00 23 Q. And what were the amounts you were transporting from Dallas
13:42:03 24 to the border?

13:42:13 25 A. From a million to a million, 500,000. That was the maximum.

13:42:16 1 The max.

13:42:17 2 Q. Was that per trip?

13:42:20 3 A. Yes. Per trip. Uh-huh.

13:42:23 4 Q. And approximately how many trips have you made in total

13:42:26 5 during that timeframe?

13:42:38 6 A. During a month, it was like two or three trips per month.

13:42:44 7 Q. And did you know where the money was coming from?

13:42:51 8 A. There I was sent to a person named "Junior." I would talk

13:43:07 9 to him there, and then, he would send the workers with the money.

13:43:10 10 Q. And do you know what was sold to get the money?

13:43:18 11 A. Yes. Uh-huh.

13:43:19 12 Q. And what was that?

13:43:21 13 A. Cocaine.

13:43:22 14 Q. Did you ever take part in any transportation of cocaine

13:43:26 15 loads from Mexico to the United States?

13:43:32 16 A. No. Just money.

13:43:35 17 Q. And where would you conceal this money during the trips from

13:43:39 18 Dallas to the border region?

13:43:54 19 A. Sometimes I had to hide it in the doors, and then, if not,

13:43:58 20 then I would bring it in washers or refrigerators.

13:44:03 21 Q. Were you ever stopped by police during any of these trips?

13:44:22 22 A. Just once, but it was only -- he was checking on a light.

13:44:27 23 He said for me to go on, be careful, but he didn't check to see

13:44:32 24 what I had with me.

13:44:32 25 Q. And how would you get paid for transporting the money?

13:44:39 1 A. I was paid one percent.

13:44:41 2 Q. So given your example of a million dollars on one trip, how

13:44:47 3 much would you be paid for that?

13:44:52 4 A. 10,000.

13:44:55 5 Q. Did you ever take a trip to Ruidoso, New Mexico?

13:45:00 6 A. Yes.

13:45:01 7 Q. And how did it come to be that you were instructed to make a

13:45:06 8 trip to Ruidoso?

13:45:20 9 A. Okay. I got a phone call from Mario, "Poncho." Mario

13:45:23 10 saying he wanted to talk to me. And I went to the Nava. He said

13:45:34 11 come to Nava. And so, I went to the house at Nava -- in Nava and

13:45:38 12 "Poncho" and Hector were there.

13:45:39 13 Q. Let me back up a second. When was this?

13:45:43 14 A. That was more or less in 2010, August, July. I don't

13:45:57 15 remember.

13:45:58 16 Q. And you said the house at Nava. Where is Nava?

13:46:04 17 A. Nava's in Coahuila.

13:46:08 18 Q. In Mexico?

13:46:09 19 A. In Mexico, yes.

13:46:11 20 Q. And lastly, you said you went there to meet with Mr. Cuellar

13:46:13 21 and an individual named Hector. Do you know Hector's full name?

13:46:24 22 A. Hector Moreno.

13:46:28 23 Q. And when you arrived at this house in Nava in Coahuila, what

13:46:32 24 were you told?

13:46:48 25 A. I was told, you're going to go to Dallas. There, you're

13:46:51 1 going to pick up some money and from Dallas, you're going to go
13:46:53 2 to New Mexico to Ruidoso.

13:46:55 3 Q. And were you told how much money you were going to pick up?

13:47:01 4 A. Yes.

13:47:01 5 Q. And how much was it?

13:47:04 6 A. \$110,000.

13:47:06 7 Q. And were you told what that money was for?

13:47:17 8 A. I wasn't told. I was just told that I should pick it up,
13:47:20 9 and there in New Mexico, you should deliver it to a woman.

13:47:24 10 Q. And did you, in fact, go from Nava to Dallas to pick up
13:47:29 11 money?

13:47:32 12 A. Uh-huh. Yes. And from there, I called "Junior," letting
13:47:47 13 him know I had arrived in Dallas to pick up the money. And
13:47:50 14 "Junior" sent me a worker to bring me the money.

13:47:53 15 Q. And do you know "Junior's" full name?

13:47:57 16 A. Jose Vasquez.

13:47:59 17 Q. And you went to pick up the money from "Junior," who you
13:48:04 18 know as Jose Vasquez, and what did you do after that?

13:48:15 19 A. Okay. And, well, okay. Then when I got the money, I
13:48:37 20 wrapped it up, and I put it in one of those pressure cookers, the
13:48:41 21 one you use for turkey. And then, from there, I went to Ruidoso,
13:48:46 22 and there, I went to the Wal-Mart. Do you want me to go on?

13:48:50 23 Q. One second. Let me ask you another question.

13:48:52 24 When you say you wrapped up the money, what type of
13:48:55 25 bills were they? What amounts?

13:49:01 1 A. All 100s.

13:49:03 2 Q. And how was it packaged when you received it?

13:49:11 3 A. It wasn't packaged. It was just given to me like that in a

13:49:15 4 bag. Just like that in a bag.

13:49:16 5 Q. Was it wrapped in anything? Paper? Anything?

13:49:21 6 A. Just had rubber-bands. Just had rubber-bands.

13:49:24 7 Q. And during your trip to New Mexico, did you receive any

13:49:28 8 calls?

13:49:45 9 A. Yeah. Hector was calling me, asking me where I was, what

13:49:50 10 time was I going to get there, and that when I got to Ruidoso,

13:49:52 11 that I should call him so that he could give me the phone number

13:49:54 12 to the woman that I was supposed to meet there.

13:49:57 13 Q. So prior to arriving in Ruidoso, you were not aware who you

13:50:01 14 were going to meet?

13:50:05 15 A. No. I just grabbed -- got the money and I went on to

13:50:20 16 Ruidoso. And it was about three hours before I got to Ruidoso

13:50:23 17 that I called Hector.

13:50:25 18 Q. And so, you got to Ruidoso, I believe you testified, then

13:50:28 19 you pulled into a Wal-Mart; is that correct?

13:50:31 20 A. To Wal-Mart. Uh-huh.

13:50:34 21 Q. And were you eventually given that number to call somebody

13:50:38 22 by Hector Moreno?

13:50:46 23 A. Yeah. Gave it to me. Gave it to me and I called the lady

13:51:11 24 and she said, you know what, you wait there. And so, I waited

13:51:14 25 there about two hours, and after about two hours, I called her,

13:51:18 1 and she said, you know what, I'm just getting there. I'm just
13:51:21 2 getting there. Meet me over at the track, at the race -- at the
13:51:24 3 horse race track.

13:51:25 4 Q. And do you know the name of the race track?

13:51:28 5 A. It's just a track. It's where they run horses and it was
13:51:46 6 empty. It's like a race track, a horse race track and I just
13:51:52 7 waited there. There was no one there.

13:51:54 8 Q. And this woman you were supposed to meet, did she eventually
13:51:58 9 show up?

13:52:01 10 A. Yeah. From when I called within ten minutes, she was
13:52:21 11 arriving. She was pulling into the parking lot. And when she
13:52:24 12 pulled into the parking lot, I just grabbed the pen, I gave it to
13:52:27 13 her, and then, I left.

13:52:28 14 Q. And did you have any conversation with this woman?

13:52:31 15 A. No. Not at all.

13:52:32 16 Q. And can you describe what she looked like for the jury?

13:52:37 17 A. Well, it's been about two years, but more or less, it was a
13:53:02 18 truck. It was either black or white, a big one, a diesel. The
13:53:07 19 lady, she was an American lady, and I remember she had dark
13:53:10 20 glasses on.

13:53:14 21 Q. And I think I asked you this question, but did you have a
13:53:17 22 conversation with her? I did ask you that question. Never mind.

13:53:20 23 Have you ever heard of a horse named Mr. Piloto?

13:53:27 24 A. No, sir.

13:53:29 25 Q. Have you got a lawyer assist you through this process of you

13:53:34 1 being arrested and your criminal proceedings?

13:53:43 2 A. Are you asking if he helped me?

13:53:46 3 Q. Have you had an attorney through this whole process?

13:53:57 4 A. Oh, yeah. Before. I mean, I don't think he's here right

13:54:00 5 now but before, yes.

13:54:01 6 Q. And I'm sure these gentlemen who also have lawyers are going

13:54:04 7 to have an opportunity to talk to you. And I'll pass the

13:54:06 8 witness, your Honor.

13:54:13 9 CROSS-EXAMINATION

13:54:17 10 BY MS. WILLIAMS:

13:54:17 11 Q. What's your lawyer's name?

13:54:21 12 A. Rafael Del la Garza.

13:54:25 13 Q. Rafael De la Garza, the same as Mr. Cuellar's lawyer?

13:54:31 14 A. No.

13:54:31 15 MR. GARDNER: Your Honor, I believe that misstates the
13:54:34 16 facts. I believe Mr. Cuellar's lawyer was Frank Perez.

13:54:39 17 MS. WILLIAMS: No further questions.

13:54:44 18 MR. DEGEURIN: I have no questions.

13:54:47 19 MR. WOMACK: Yes, your Honor. Briefly.

13:54:48 20 CROSS-EXAMINATION

13:54:48 21 BY MR. WOMACK:

13:54:51 22 Q. Good afternoon, Mr. Mata.

13:54:53 23 A. Good afternoon.

13:54:54 24 Q. I'm Guy Womack from Houston. We've never met, have we?

13:54:59 25 A. No. Huh-uh.

13:55:02 1 Q. At the time that you pled guilty in the Eastern District, do
13:55:06 2 you recall that you had entered into a written contract with the
13:55:10 3 government called a plea agreement?

13:55:22 4 A. Uh-huh.

13:55:23 5 Q. Is that "Yes"?

13:55:29 6 A. Yes. Let me see. I don't remember. Yes. Yes.

13:55:35 7 Q. Do you recall that at the time that you pled guilty, before
13:55:40 8 the judge would accept your plea of guilty, the judge went over
13:55:44 9 with you a plea agreement that set out the terms of your
13:55:49 10 agreement with the United States Attorney's Office?

13:55:57 11 A. Uh-huh. Yes.

13:56:10 12 Q. And before the judge would accept your plea, the judge made
13:56:14 13 sure that you understood all the terms of that agreement.

13:56:28 14 A. Uh-huh. Yes.

13:56:29 15 Q. And do you recall that among the terms was that you would
13:56:33 16 plead guilty to something; is that right?

13:56:42 17 A. Yes.

13:56:44 18 Q. And you would waive your right to appeal that conviction or
13:56:47 19 sentence forever.

13:56:59 20 A. Uh-huh. Yes.

13:57:00 21 Q. And it also had a paragraph that was entitled "Cooperation,"
13:57:05 22 and it said in there that if you were to cooperate with the
13:57:09 23 United States government, you could get your sentence reduced.

13:57:13 24 Do you recall that?

13:57:28 25 A. Yes. Yes. I understand that.

13:57:33 1 Q. And, in fact, it said there are two times or two ways that
13:57:37 2 you can get your sentence reduced for cooperation. One of them
13:57:41 3 was called a downward departure from the sentence guidelines. Do
13:57:46 4 you recall that?

13:58:00 5 A. Yes.

13:58:00 6 Q. And you understood that that was for cooperation that you
13:58:03 7 gave the government before the time that you were actually
13:58:06 8 sentenced?

13:58:14 9 A. Uh-huh.

13:58:15 10 Q. Is that "Yes"?

13:58:21 11 A. Yeah, but I'm not expecting anything from the government.

13:58:24 12 You understand?

13:58:24 13 Q. Okay. But the agreement says that the second part of the
13:58:29 14 cooperation is even for cooperation you give after your
13:58:32 15 sentencing, you could get a reduction of sentence for
13:58:36 16 cooperation. Do you understand that?

13:58:48 17 A. Yeah. I understand. But I'm not certain that they're going
13:58:53 18 to reduce it.

13:58:54 19 Q. We understand that. And the reason that you're not certain
13:58:59 20 is because in your plea agreement, it says only the United States
13:59:03 21 Attorney can decide if you have actually cooperated. Is that
13:59:17 22 right?

13:59:17 23 A. Yeah. Only the prosecutor can.

13:59:20 24 Q. Okay. And that means that you understand that in order for
13:59:26 25 you to get a reduction for cooperating here, it would be required

13:59:32 1 that the prosecutors here tell the prosecutors in the Eastern
13:59:37 2 District that you have cooperated with them, correct?
13:59:51 3 A. This is right.
13:59:53 4 Q. So, in other words, the only way you can get a reduction of
13:59:57 5 sentence in the Eastern District is if Mr. Gardner or his office
14:00:02 6 from here tells the Eastern District that you have helped them,
14:00:07 7 correct?
14:00:20 8 A. Uh-huh.
14:00:20 9 Q. Is that "Yes"?
14:00:23 10 A. Uh-huh.
14:00:25 11 Q. Is that "Si" or "No"?
14:00:29 12 A. It's that I don't understand your question.
14:00:31 13 Q. Does "Uh-Huh" mean "Yes" or "No"?
14:00:34 14 MR. GARDNER: Your Honor, he answered the question. I
14:00:35 15 object, your Honor. He's answered the question. I think we all
14:00:38 16 know what "Uh-Huh" means in this court.
14:00:40 17 THE COURT: Well --
14:00:42 18 MR. WOMACK: We need it for the record.
14:00:45 19 THE COURT: I'm never sure the court reporter knows how
14:00:47 20 to write "Uh-Huh." So we'll have a "Yes" or a "No."
14:00:55 21 A. No. No.
14:00:57 22 Q. (BY MR. WOMACK) So you don't think it's important that the
14:01:00 23 U.S. Attorney here notify the U.S. Attorney in the Eastern
14:01:04 24 District of your cooperation? You don't think that's important?
14:01:16 25 A. No. No. I don't. No.

14:01:18 1 Q. Your lawyer didn't tell you that you could have your
14:01:21 2 sentence reduced for testifying in this trial?

14:01:33 3 A. What can I say? The attorney never even came to see me.

14:01:36 4 Q. Have the attorneys here not told you that your cooperation
14:01:40 5 could get them to tell the Eastern District of your cooperation?

14:01:44 6 MR. GARDNER: Your Honor, this has been asked and
14:01:45 7 answered.

14:01:45 8 THE COURT: It has been asked and answered.

14:01:49 9 Q. (BY MR. WOMACK) You understand that the only way your
14:01:51 10 sentence can be reduced is with the help of the prosecutors here?

14:01:54 11 MR. GARDNER: Your Honor, that's been asked and
14:01:55 12 answered.

14:01:58 13 THE COURT: No, no. He answered that you couldn't help
14:02:03 14 him but by -- I think you'd better start over.

14:02:06 15 MR. WOMACK: Yes, sir. I knew you were going to say
14:02:09 16 that, sir, but yes.

14:02:11 17 Q. (BY MR. WOMACK) Do you understand that under the terms of
14:02:14 18 your plea agreement that you signed in the Eastern District of
14:02:18 19 Texas, you can get a reduced sentence for cooperation?

14:02:37 20 A. But I didn't sign anything, did I? I mean, what can I say?
14:02:49 21 The attorney never came. I mean, in a year, year and a half, he
14:02:52 22 only came twice.

14:03:18 23 Q. Sir, I'm going to show you what's been marked as Defendant's
14:03:22 24 Exhibit Garcia No. 2. It's a multi-page document. If you will
14:03:31 25 thumb through all the pages and familiarize yourself with what

14:03:35 1 that is and then, look back up.

14:03:38 2 MR. GARDNER: We have no objection. Mr. Womack didn't
14:03:41 3 even lay the foundation. We have no objection to Garcia No. 2.

14:03:45 4 THE COURT: Well.

14:03:48 5 MR. WOMACK: So with that I would offer Garcia
14:03:51 6 Defendant's Exhibit No. 2 and ask to publish it.

14:03:56 7 THE COURT: It's received.

14:04:06 8 Q. (BY MR. WOMACK) Mr. Mata, have you had a chance to look at
14:04:26 9 that exhibit?

14:04:33 10 A. Yeah, it was shown to me, but it was really, really quick.
14:04:36 11 The attorney didn't --

14:04:39 12 Q. Do you remember the judge in the court that you were in?

14:04:50 13 A. She's Cone -- Crone.

14:04:52 14 Q. Judge Crone. It's a lady, wasn't it?

14:04:56 15 A. Yes. It's a lady.

14:05:05 16 Q. Your Honor, we're trying to figure out how to back this
14:05:08 17 thing up.

14:05:20 18 Okay. Mr. Mata, I'm showing you what has been marked
14:05:29 19 as Garcia -- or Defendant's Exhibit Garcia No. 2, and it's
14:05:36 20 entitled, "Plea Agreement." Do you see that?

14:05:52 21 A. Uh-huh. Yes.

14:05:54 22 Q. Okay. And the first page has your name on it, doesn't it?

14:06:04 23 A. Yes.

14:06:06 24 Q. And it says that you have an attorney named Rafael De la
14:06:10 25 Garza, II?

14:06:15 1 A. Yes.

14:06:19 2 Q. In addition to talking about rights that you're waiving,

14:06:27 3 like to have a jury trial, talking a little bit about the

14:06:31 4 sentencing guidelines. We get over to page 4, paragraph 7, which

14:06:49 5 says that you, the defendant, shall give truthful and complete

14:06:55 6 information and/or testimony concerning your participation in the

14:07:00 7 offense of conviction and knowledge of other criminal activities.

14:07:06 8 Do you remember that?

14:07:35 9 A. Uh-huh. Yes.

14:07:37 10 Q. Turn over to page -- well, do you see where now, I've turned

14:07:41 11 to page 6 of the agreement and looking at paragraph 9, where it

14:07:46 12 says, substantial assistance, do you see that?

14:07:57 13 A. Yes.

14:07:59 14 Q. And it says in that paragraph that if in its sole

14:08:04 15 discretion, the government determines that you have provided

14:08:09 16 substantial assistance in the investigation or prosecution of

14:08:13 17 others, the government will file a motion for downward departure

14:08:20 18 pursuant to Sentencing Guideline Section 5K1, or a motion for

14:08:24 19 reduction of sentence under Federal Rules of Criminal Procedure

14:08:28 20 35. Do you remember that?

14:08:59 21 A. Yes.

14:09:01 22 Q. If you flip to the last page, page 9, which I've got on the

14:09:07 23 screen now, paragraph 17 says that you, your attorney and the

14:09:11 24 government acknowledge that this is a complete statement of your

14:09:15 25 agreement in this case. It takes the place of any other plea

14:09:21 1 agreements and can't be modified. Can't be modified unless the
14:09:26 2 modification is in writing and signed by all parties, and no
14:09:31 3 other promises have been made. Do you see that?

14:09:56 4 A. Yes.

14:09:57 5 Q. And down about the middle of the page, do you see where it
14:10:00 6 says, I have read or had read to me this plea agreement and have
14:10:06 7 carefully reviewed every part of it with my attorney. I fully
14:10:11 8 understand it and voluntarily agree to it, and has a date 4-25-12
14:10:20 9 and it has a signature. Whose signature is that?

14:10:46 10 A. It's mine.

14:10:51 11 Q. And you see that underneath where you signed it, your
14:10:55 12 attorney signed it saying that he was your counsel, that he had
14:11:00 13 carefully reviewed every part of this plea agreement with you,
14:11:05 14 and to his knowledge and belief, you understood your decision to
14:11:10 15 enter into it was an informed and voluntary one. And he signed
14:11:15 16 it, didn't he?

14:11:35 17 A. Uh-huh. Yes.

14:11:36 18 Q. And right above you, you see where the U.S. Attorney or, in
14:11:39 19 this case, the Assistant U.S. Attorney Mr. Gonzalez also signed
14:11:43 20 the plea agreement?

14:11:53 21 A. Yes.

14:11:54 22 Q. And you see that he signed it a day after you and your
14:11:56 23 lawyer signed it. Do you see that?

14:12:00 24 MR. GARDNER: Your Honor, at this point, I'm going to
14:12:01 25 object to the relevance about the day, when people were signing

14:12:04 1 the plea agreement.

14:12:04 2 MR. WOMACK: I think it's important, your Honor, to
14:12:07 3 show that -- the process he went through and must have known what
14:12:11 4 he was signing.

14:12:13 5 MR. GARDNER: I think he's already admitted that, your
14:12:15 6 Honor.

14:12:16 7 THE COURT: Well, let him ask the questions.

14:12:20 8 Q. (BY MR. WOMACK) You actually gave this agreement to the
14:12:22 9 government the day before your trial, didn't you?

14:12:33 10 A. Yes.

14:12:33 11 Q. And then, while you were standing there in front of Judge
14:12:36 12 Crone, she went over all these material terms with you and made
14:12:42 13 sure that you understood them, didn't she?

14:12:49 14 A. Yes.

14:12:50 15 Q. And you had the assistance of a Spanish interpreter, just
14:12:53 16 like you do here at court, didn't you?

14:12:58 17 A. Yes.

14:13:03 18 Q. Those are all the questions I have. Thank you.

14:13:15 19 CROSS-EXAMINATION

14:13:15 20 BY MR. ESPER:

14:13:29 21 Q. Mr. Mata, before you were locked up, what city did you live
14:13:36 22 in?

14:13:41 23 A. Oh, Eagle Pass.

14:13:42 24 Q. Okay. So you are a United States citizen?

14:13:47 25 A. Yes.

14:13:48 1 Q. And you for the last ten years before you were locked up,
14:13:54 2 you made your living transporting cars? Would that be a fair
14:14:00 3 statement?
14:14:01 4 A. Yeah. Right. I worked transporting cars. I worked at
14:14:15 5 Wal-Mart. I worked straight.
14:14:16 6 Q. When did you start working for Mr. Cuellar?
14:14:25 7 A. In about 2004.
14:14:27 8 Q. Okay. And you got locked up in 2012?
14:14:33 9 A. No. In '11. 2011.
14:14:36 10 Q. In late 2011?
14:14:39 11 A. September. Yes.
14:14:41 12 Q. Okay. So you worked for Mr. Cuellar for about seven years,
14:14:44 13 correct?
14:14:45 14 A. No. I worked -- besides him, I worked with other people. I
14:15:03 15 would get crosswise with him and I'd go work for someone else.
14:15:05 16 Q. Okay. Were you an independent trucker?
14:15:17 17 A. Yeah. When I worked for Mario when he had cars, he would
14:15:30 18 loan me his vehicle, his truck, and I would use his truck. Then
14:15:34 19 I got my own truck and I would transport.
14:15:37 20 Q. So but the first time you started working for Mr. Cuellar
14:15:40 21 was in 2004, correct?
14:15:50 22 A. Yeah. Like about 2004 and it was just a little bit in the
14:15:53 23 beginning, a little money.
14:15:54 24 Q. That's fine. I'm not trying to trick you on the years.
14:15:58 25 Now, you say that you would get crosswise with Mr.

14:16:02 1 Cuellar. About what?

14:16:11 2 A. It's that he's got a really strong personality, lot of

14:16:15 3 energy.

14:16:16 4 Q. Lot of energy?

14:16:27 5 A. Well, yeah, because he would get angry. If I did something

14:16:30 6 wrong, he would scold me, and then, I'd get mad and I'd go

14:16:33 7 somewhere else, work somewhere else.

14:16:36 8 Q. He had a bad temper, didn't he?

14:16:38 9 A. Yes. He had a bad temper.

14:16:40 10 Q. And oftentimes, he'd try to fool you, didn't he?

14:16:53 11 A. Not much, but it's just that he has that quirk that he's

14:17:00 12 very strict that there were certain things I had to pay attention

14:17:03 13 to.

14:17:03 14 Q. And if you didn't, you got scolded and talked down to,

14:17:09 15 correct?

14:17:28 16 A. Yes. And then, I would get mad and I'd say I'm not going to

14:17:30 17 work with him anymore, and I'd go away for about a year. And

14:17:34 18 then, I'd work for someone else, and then, the work would run out

14:17:37 19 and I'd have to call him back.

14:17:39 20 Q. When you went back, he made sure you understood that he was

14:17:42 21 running the show and you had to do what he told you to do?

14:17:53 22 A. Yes. Yes.

14:17:55 23 Q. Now, you say that, at some juncture, he convinces you to

14:18:00 24 start going and picking up money, correct?

14:18:21 25 A. Well, in the beginning, yes. He said, you want to make more

14:18:24 1 money because that was just a little bit. You want to make more
14:18:27 2 money because I have large amounts and you can make more money.
14:18:29 3 Q. And is this -- would this be about in 2007, 2008, 2009? If
14:18:41 4 you know.
14:18:49 5 A. Yes. 2007 -- well, when things got good, good was 2009 to
14:19:01 6 2010. The money I was getting.
14:19:04 7 Q. Okay. Did Mr. Cuellar tell you this money that you're
14:19:10 8 picking up comes from the sale of cocaine that I've supplied to
14:19:17 9 "Junior"?
14:19:40 10 A. Well, with Cuellar, after that, I didn't talk to Cuellar.
14:19:44 11 He said, you know what, you talk to Hector. He's the one that's
14:19:47 12 going to be handling the money.
14:19:48 13 Q. Okay. Did Hector tell you, this money that you're picking
14:19:53 14 up, this money you're picking up, Gerardo, is money that comes
14:20:00 15 from the sale of cocaine by "Junior" that we've sent up to him?
14:20:17 16 A. Yes.
14:20:18 17 Q. And that you didn't shy away from picking up that money,
14:20:23 18 even after Hector told you that?
14:20:33 19 A. No. I kept bringing money.
14:20:34 20 Q. Okay. Now, were Hector and Cuellar partners?
14:20:40 21 A. Yes. Uh-huh.
14:20:41 22 Q. Now, did Mr. Cuellar own a business in Piedras Negras? You
14:20:46 23 said something about a junkyard.
14:21:03 24 A. Oh, in Piedras Negras, yes, he did have a business.
14:21:06 25 Q. Okay.

14:21:07 1 A. Something to do with machinery. Some kind of machinery. I
14:21:10 2 don't remember.

14:21:10 3 Q. Did he have a business in Eagle Pass?

14:21:21 4 A. Oh, but that was in the beginning when I worked -- when I
14:21:24 5 started working with him at the auto parts junkyard.

14:21:27 6 Q. Okay. He had an auto parts junkyard in Eagle Pass, correct?

14:21:32 7 A. Yes. Yes. Correct.

14:21:36 8 Q. And where did he live, in Eagle Pass or Piedras Negras or
14:21:39 9 both?

14:21:44 10 A. Mario? Are you asking about Mario?

14:21:48 11 Q. Mr. Cuellar.

14:21:56 12 A. In the end, he worked -- he lived in Piedras Negras -- Nava.
14:22:01 13 Piedras Negras, Coahuila.

14:22:02 14 Q. Didn't have a house in Eagle Pass?

14:22:07 15 A. That I remember, no.

14:22:11 16 Q. Okay. When you worked for Mr. Cuellar, did you believe
14:22:27 17 everything that he told you?

14:22:36 18 A. Sometimes. Sometimes no. He was kind of a liar.

14:22:42 19 Q. He was a pretty good liar, wasn't he?

14:22:50 20 A. No. Not much. A little bit.

14:22:53 21 Q. Whenever it was his benefit to lie, he lied, didn't he?

14:23:02 22 A. Well, yeah, because when he paid me, he didn't pay me right.

14:23:05 23 Q. Yeah. Okay. That's all I got, your Honor.

14:23:15 24 MR. MAYR: Judge, I have no further questions.

14:23:15 25

RE-DIRECT EXAMINATION

14:23:15 1 (BY MR. GARDNER)

14:23:22 3 Q. Mr. Mata, did you come here to tell the truth today?

14:23:26 4 A. Yes.

14:23:27 5 MR. ESPER: Objection, your Honor. That's for the jury

14:23:29 6 to decide whether he's telling the truth or not. This calls for

14:23:34 7 a --

14:23:35 8 THE COURT: The question has been answered. Next

14:23:37 9 question.

14:23:38 10 Q. (BY MR. GARDNER) Have you told the truth here today?

14:23:40 11 MR. ESPER: Objection, your Honor.

14:23:41 12 THE COURT: All right. The objection is overruled.

14:23:43 13 You can inquire if he's telling the truth. That's what you've

14:23:46 14 been doing for an hour.

14:23:50 15 A. Yes.

14:23:50 16 Q. (BY MR. GARDNER) And is the truth that you took that money

14:23:53 17 to Ruidoso?

14:23:56 18 A. Yes.

14:23:56 19 Q. That's all I have, your Honor.

14:23:59 20 THE COURT: Any further questions from defense?

14:24:01 21 MR. WOMACK: No questions.

14:24:02 22 THE COURT: Mr. --

14:24:03 23 MR. ESPER: I have none, your Honor.

14:24:05 24 THE COURT: Okay. May this witness be excused? You
14:24:09 25 may step down, sir. Call your next witness.

14:24:15 1 MS. FERNALD: The government would call Sharon Moore.

14:24:47 2 (Witness sworn.)

14:25:10 3 THE COURT: Ma'am, if you'll tell us your full name and

14:25:14 4 spell your last, please.

14:25:14 5 THE WITNESS: Sharon Moore Crain, C-R-A-I-N.

14:25:19 6 THE COURT: You may proceed.

14:25:20 7 SHARON MOORE CRAIN, called by the Government, duly sworn.

14:25:20 8 DIRECT EXAMINATION

14:25:20 9 BY MS. FERNALD:

14:25:21 10 Q. Ms. Moore Crain, can you tell the ladies and gentlemen of

14:25:24 11 the jury where you live and what you do for a living?

14:25:26 12 A. I live in Mesquite, Texas and I do income taxes. And I'm a

14:25:31 13 bookkeeper.

14:25:34 14 MS. WILLIAMS: Your Honor, I'm having a little trouble

14:25:36 15 hearing the witness.

14:25:37 16 MS. FERNALD: I am, too.

14:25:38 17 THE COURT: Let's move -- yeah. If you'll speak.

14:25:41 18 THE WITNESS: Is that better?

14:25:42 19 THE COURT: If you'll speak into that mic, it will

14:25:45 20 work.

14:25:46 21 Q. (BY MS. FERNALD) You live where?

14:25:48 22 A. In Mesquite, Texas.

14:25:50 23 Q. And what do you do for a living?

14:25:51 24 A. I do income taxes and bookkeeping.

14:25:54 25 Q. Are you known as a tax preparer?

14:25:56 1 A. Yes, ma'am.

14:25:58 2 Q. How long have you been a tax preparer?

14:25:59 3 A. Twenty years.

14:26:01 4 Q. And who do you work for?

14:26:03 5 A. My own company.

14:26:05 6 Q. What is the name of your company?

14:26:06 7 A. Peggy's Bookkeeping and Tax Service.

14:26:09 8 Q. And where is it located?

14:26:11 9 A. On Gross Road in Mesquite, Texas.

14:26:13 10 Q. How long have you worked for this company?

14:26:15 11 A. Twenty years.

14:26:16 12 Q. And can you tell the ladies and gentlemen of the jury how

14:26:18 13 this company was formed?

14:26:20 14 A. My mother began this company 40 years ago and I joined her

14:26:26 15 20 years ago. Unfortunately, we lost her.

14:26:30 16 Q. All right. And so, you basically run this business; is that

14:26:34 17 correct?

14:26:34 18 A. That is true.

14:26:34 19 Q. And her first name is Peggy?

14:26:36 20 A. Yes.

14:26:36 21 Q. All right. Ms. Moore Crain, can you tell me a little bit

14:26:42 22 about your educational background for the jury?

14:26:45 23 A. Yes, ma'am. I have a high school diploma and I've had some

14:26:50 24 college.

14:26:52 25 Q. And you've had a lot of on-the-job training and experience?

14:26:55 1 A. A lot of on-the-job training.

14:26:57 2 Q. In 20 years, how many clients do you approximate that you

14:27:01 3 have seen to prepare their taxes?

14:27:03 4 A. Wow, I probably do 6 to 700 a year. So I do quite a bit.

14:27:10 5 Q. And how many people work in your office with you?

14:27:13 6 A. About nine.

14:27:15 7 Q. Okay. And is Tracy Pennington one of these employees?

14:27:19 8 A. Yes, ma'am.

14:27:20 9 Q. Who is Allen Fischer?

14:27:21 10 A. He is a CPA in Dallas, Texas.

14:27:24 11 Q. When an individual comes into your office for you to prepare

14:27:31 12 their tax return, can you just give the ladies and gentlemen of

14:27:33 13 the jury a little bit about what happens and what is the

14:27:36 14 interaction there?

14:27:37 15 A. Well, we ask them to fill out a form that -- we ask a lot of

14:27:44 16 questions, you know, who's your dependents and their Socials.

14:27:47 17 And, of course, we get their identification. And, you know, ask

14:27:52 18 them what sorts of income that they have to prepare their taxes.

14:27:56 19 Q. Income, different expenses that they have?

14:27:59 20 A. Yes, ma'am.

14:28:00 21 Q. Things like exemptions?

14:28:01 22 A. Yes, ma'am.

14:28:02 23 Q. Items like that. You ask for bank accounts and records?

14:28:05 24 A. Yes, ma'am.

14:28:06 25 Q. W-2s?

14:28:07 1 A. Yes, ma'am.

14:28:08 2 Q. 1099s?

14:28:09 3 A. Yes, ma'am. And if they don't have it, I get it from the

14:28:14 4 IRS.

14:28:15 5 Q. Do you know an individual by the name of Jose

14:28:19 6 Trevino-Morales?

14:28:19 7 A. Yes, ma'am.

14:28:20 8 Q. And how do you know that individual?

14:28:22 9 A. He came to my office.

14:28:24 10 Q. What year did he come to your office?

14:28:26 11 A. In late 2009.

14:28:30 12 Q. Do you remember the month?

14:28:33 13 A. I believe it was November or October. I don't know the

14:28:38 14 exact date.

14:28:39 15 Q. Ms. Moore Crain, would you take a moment to -- you may even

14:28:43 16 have to stand up, look around the courtroom and see if you see

14:28:47 17 Mr. Jose Trevino-Morales in the courtroom today.

14:28:49 18 A. Yes. I do.

14:28:50 19 Q. Okay. And can you identify the type of clothing that he's

14:28:55 20 wearing?

14:28:55 21 A. A blue shirt and maroon tie.

14:28:58 22 Q. So this is the individual that came into your office in late

14:29:01 23 2009?

14:29:02 24 A. Yes, ma'am.

14:29:03 25 Q. Thank you.

14:29:06 1 Ms. Moore Crain, what was the purpose obviously of him
14:29:09 2 coming into your office in late 2009?

14:29:12 3 A. That he had won a race and that he wanted to start a
14:29:17 4 company.

14:29:18 5 Q. Won a race?

14:29:20 6 A. Yes, ma'am. Lone Star -- at the Lone Star Park, he had won
14:29:25 7 a horse race.

14:29:26 8 Q. A horse race. And what did he tell you at that time?

14:29:33 9 A. That he had won the race and that he wanted to form a
14:29:39 10 company and that he had bought a horse for \$25,000 from a tip
14:29:46 11 from one of his relatives.

14:29:48 12 Q. Do you recall the name of that horse?

14:29:52 13 A. Tempting Dash.

14:29:55 14 THE COURT: Tell me again.

14:29:56 15 THE WITNESS: Tempting Dash.

14:29:58 16 Q. (BY MS. FERNALD) Tempting Dash? Is that what you said?

14:30:01 17 A. Yes, ma'am.

14:30:01 18 Q. And when you say a relative, did he identify which relative
14:30:06 19 this was that helped him with this tip?

14:30:09 20 A. Either a brother or a brother-in-law. I don't know.

14:30:13 21 Q. Do you recall the name?

14:30:15 22 A. No, ma'am.

14:30:16 23 Q. Does the name Rodolfo refresh your recollection?

14:30:19 24 A. Yes, ma'am.

14:30:20 25 Q. Did he have the same last name as Jose Trevino?

14:30:24 1 A. I believe so.

14:30:29 2 Q. Did Mr. Jose Trevino at that time tell you where he got the

14:30:34 3 \$25,000?

14:30:37 4 A. No, ma'am.

14:30:40 5 Q. Did you ever see a purchase contract for Tempting Dash?

14:30:44 6 A. No, ma'am.

14:30:46 7 Q. What did you find out later about Tempting Dash, the horse's

14:30:53 8 condition?

14:30:54 9 A. That there was something wrong with the horse's blood.

14:31:00 10 Q. And when he said -- meaning Mr. Trevino-Morales said that he

14:31:04 11 wanted to form a company, did he, in fact, form a company at that

14:31:08 12 time?

14:31:08 13 A. Yes, ma'am.

14:31:10 14 Q. Do you recall the name of the company?

14:31:12 15 A. Tremor Enterprises.

14:31:17 16 Q. I'm showing you what has been marked as Government's Exhibit

14:31:20 17 353A. Have you ever seen this document before?

14:31:32 18 A. Yes, ma'am.

14:31:33 19 Q. What is that document?

14:31:35 20 A. It's a certificate from the Secretary of State, stating that

14:31:39 21 they are a legal entity.

14:31:41 22 Q. And when you say "they," who is "they"?

14:31:43 23 A. The owners of the company.

14:31:45 24 Q. Okay. And what is the name of the company?

14:31:47 25 A. Tremor Enterprises.

14:31:51 1 Q. I'm sorry. Go ahead.

14:31:52 2 A. Tremor Enterprises, LLC.

14:31:53 3 Q. Okay. Move for the introduction of Government's Exhibit

14:31:58 4 353E. I'm sorry, A. I can't read. I'm sorry. 353A.

14:32:02 5 MS. WILLIAMS: No objection.

14:32:04 6 THE COURT: It's received.

14:32:10 7 Q. (BY MS. FERNALD) Did you know by your conversations that the

14:32:16 8 documents that were provided to you by the Defendant Jose

14:32:21 9 Trevino-Morales, what he did for a living?

14:32:25 10 A. Well, I only prepared his taxes one year, and I understood

14:32:30 11 before the race that he was a masonary.

14:32:35 12 Q. And would you have received W-2s in support of that?

14:32:37 13 A. Yes.

14:32:38 14 Q. In fact, I'm going to show you now what has been marked as

14:32:42 15 Government's Exhibit 316. We met last night and you had a chance

14:32:48 16 to look through this, did you not?

14:32:49 17 A. Yes, ma'am.

14:32:50 18 Q. Okay. Could you just take a brief look at it?

14:33:06 19 A. Yes, ma'am.

14:33:07 20 Q. Okay. Tell me what's contained in Government's Exhibit 316.

14:33:12 21 A. These are profit-and-losses prepared by my bookkeeping

14:33:19 22 department through bank statements furnished from the client.

14:33:23 23 Q. Okay. And who was that client?

14:33:25 24 A. Mr. Trevino.

14:33:31 25 Q. Move for introduction of these records contained in

14:33:35 1 Government's Exhibit 316.

14:33:36 2 MS. WILLIAMS: Could I have a Bates?

14:33:41 3 MS. FERNALD: Your Bates stamp numbers on 316 are Bates

14:33:45 4 stamps No. 58 and 61.

14:33:52 5 MS. WILLIAMS: No objection.

14:33:54 6 THE COURT: 316 is received.

14:33:58 7 Q. (BY MS. FERNALD) So when the Defendant Trevino-Morales came

14:34:03 8 into your office, what did you ask him to provide you?

14:34:09 9 A. Well --

14:34:10 10 Q. In order to prepare his taxes.

14:34:12 11 A. His family's identification and their documents, of course,

14:34:18 12 if his wife had worked, her W-2, oldest children's birth dates

14:34:22 13 and Socials, and that's what we need to provide -- to do taxes.

14:34:27 14 Q. What about any of his bank accounts?

14:34:30 15 A. Oh, yes, ma'am. I have to have the bank accounts to do

14:34:33 16 business.

14:34:34 17 Q. Why do you need the bank accounts?

14:34:36 18 A. Because that actually proves what is going through a bank

14:34:39 19 account.

14:34:40 20 Q. Okay. So can you tell the jury a little bit about how the

14:34:44 21 whole transaction happened with Mr. Trevino? Would he provide

14:34:48 22 you these documents?

14:34:50 23 A. That is true.

14:34:51 24 Q. And then, what would you do with the documents?

14:34:53 25 A. We would translate them into a profit-and-loss.

14:34:57 1 Q. I'll show you what has previously been introduced in 316 for
14:35:03 2 the record. I promise you, I'm not going to go through each one
14:35:18 3 of these.

14:35:18 4 A. Okay. Thank you.

14:35:19 5 Q. This is not a tax case, so I'm not going to go through each
14:35:22 6 one of these. But is this basically what you prepared for Tremor
14:35:33 7 Enterprises?

14:35:34 8 A. Yes, ma'am.

14:35:35 9 Q. This is a profit-and-loss, correct?

14:35:38 10 A. Yes, ma'am.

14:35:38 11 Q. And what are you trying to show on the profit-and-loss just
14:35:42 12 for us?

14:35:43 13 A. You're showing income versus expenses.

14:35:51 14 Q. Then on the second page, you're going to have what type of
14:35:58 15 documents?

14:35:59 16 A. You're going to have your assets and their liabilities.

14:36:03 17 Q. Is this a further breakdown of what's contained on the first
14:36:06 18 page?

14:36:06 19 A. Yes, ma'am.

14:36:07 20 Q. Do you have a software program that helps you with this?

14:36:13 21 A. QuickBooks.

14:36:18 22 Q. And then, on the third page of this document, what is this
14:36:21 23 called?

14:36:23 24 A. This is a breakdown of the actual transactions that were
14:36:28 25 given from his bank statement.

14:36:35 1 Q. It's called a general ledger, correct?

14:36:37 2 A. Yes.

14:36:39 3 Q. And it goes through different transactions?

14:36:41 4 A. Yes, ma'am.

14:36:42 5 Q. And what you've just reviewed in 316, that is contained for

14:36:51 6 Tremor Enterprises in the year of 2009?

14:36:56 7 A. Yes, ma'am.

14:36:58 8 Q. 2010?

14:37:00 9 A. Yes, ma'am.

14:37:00 10 Q. And also, of course, some other companies that we'll talk

14:37:02 11 about a little bit later; is that correct?

14:37:04 12 A. Yes, ma'am.

14:37:14 13 Q. If Tremor or Jose Trevino-Morales wrote a check out for

14:37:19 14 certain expenses, how would that get transmitted to you and your

14:37:24 15 company?

14:37:24 16 A. The bank sends out photographic copies of the checks, and we

14:37:29 17 get the bank statements.

14:37:31 18 Q. And would he fax those to you?

14:37:34 19 A. No. They brought them to us.

14:37:36 20 Q. They would bring them to you?

14:37:38 21 A. Yes.

14:37:39 22 Q. Personally?

14:37:39 23 A. Yes.

14:37:40 24 Q. How often would that occur?

14:37:42 25 A. Once a month.

14:37:48 1 Q. Who did you rely upon in order to enter these expenses
14:37:54 2 and/or gains in the general ledger?

14:38:00 3 A. Well, the checks that he had written or someone had written.

14:38:04 4 Q. And how would those checks be identified as a gain or as an
14:38:08 5 expense? Who would tell you that?

14:38:10 6 A. Well, they actually -- like on deposit tickets, they would
14:38:15 7 actually write if it was for breeding or if it was a horse sale,
14:38:18 8 or if they were buying a horse, or that sort of thing.

14:38:23 9 Q. Did you go out and do independent investigation of whether
14:38:28 10 or not that was true?

14:38:28 11 A. No, ma'am.

14:38:29 12 Q. And why do you not do that as a tax preparer?

14:38:32 13 A. I have quite a few clients. That's pretty hard to do.

14:38:37 14 Q. Who all was involved with Tremor Enterprises and who did you
14:38:41 15 have contact with with Tremor Enterprises? Who were those
14:38:45 16 individuals?

14:38:48 17 A. Mr. Jose and his wife Zulema.

14:38:51 18 Q. Zulema. Was there anybody else?

14:38:54 19 A. No.

14:38:55 20 Q. Did they have a daughter?

14:38:56 21 A. Yes.

14:38:57 22 Q. Did you ever have contact with her?

14:38:58 23 A. I didn't.

14:38:59 24 Q. Okay. And I believe you had previously testified that you
14:39:08 25 actually prepared the 2009?

14:39:10 1 A. Yes.

14:39:11 2 Q. When you prepared the 2009, did you request that the

14:39:15 3 defendant and his wife come into the office?

14:39:19 4 A. No, because they had already brought their information, and

14:39:23 5 I already had all their information. So I just put it on the tax

14:39:26 6 return.

14:39:27 7 Q. Did you ever review the tax return with them?

14:39:30 8 A. Yes.

14:39:31 9 Q. Okay. And what do you do -- or what did you do at that

14:39:35 10 session with them?

14:39:36 11 A. Tell them how much money they owe.

14:39:39 12 Q. And do they, in fact, owe money in 2009?

14:39:42 13 A. Yes.

14:39:42 14 Q. And what was Mr. Trevino-Morales's reaction to that?

14:39:47 15 A. Well, I don't think he was happy with what he owed.

14:39:50 16 Q. And have you ever had a client that was happy about owing

14:39:53 17 the IRS taxes?

14:39:54 18 A. Not really.

14:39:57 19 Q. If you do, please let us know.

14:40:03 20 Did you prepare the 2010 tax returns?

14:40:06 21 A. No, ma'am.

14:40:07 22 Q. Why not?

14:40:08 23 A. Well, the money was too big and I'm used to working with

14:40:13 24 smaller numbers, and so, I was afraid of it; and so, I sent it to

14:40:21 25 a more qualified person.

14:40:23 1 Q. And when you say a more qualified person, how do you mean
14:40:26 2 that?

14:40:27 3 A. More educated.

14:40:29 4 Q. Okay. Education does not always equal how smart you are?

14:40:33 5 A. That's true.

14:40:34 6 Q. When you sent it to this other person, do you know who this
14:40:38 7 other person is?

14:40:39 8 A. Yes, ma'am.

14:40:39 9 Q. And who was that?

14:40:40 10 A. Allen Fischer.

14:40:41 11 Q. And he's a CPA; is that correct?

14:40:43 12 A. Yes, ma'am.

14:40:44 13 Q. When you reviewed the documents for Tremor Enterprises, are
14:40:57 14 you aware of whether or not there are any employment agreement
14:41:00 15 contracts in their documents?

14:41:03 16 A. No. There's not.

14:41:05 17 Q. Was there a set salary in which Jose Trevino or Zulema
14:41:10 18 Trevino received money from Tremor Enterprises?

14:41:12 19 A. Not as far as I knew.

14:41:14 20 Q. How was that done? Do you know?

14:41:16 21 A. Well, basically, if they wrote themselves a check, we would
14:41:24 22 build the taxes on top of it normally.

14:41:26 23 Q. And do they pay -- to the best of your knowledge, do they
14:41:28 24 pay their taxes?

14:41:29 25 A. As far as I knew.

14:41:31 1 Q. All right. And are you aware of in 2011, the beginning or
14:41:42 2 the starting of two other corporations by Jose Trevino-Morales
14:41:47 3 and his wife Zulema?

14:41:48 4 A. Yes.

14:41:49 5 Q. Are you familiar with 66 Land and Zule Farms?

14:41:53 6 A. Yes.

14:41:54 7 Q. I'm showing you now what has been marked as Government's
14:42:08 8 Exhibit 362A and 362B. Take a moment to look at those.

14:42:41 9 A. Yes, ma'am.

14:42:42 10 Q. Do you recognize those documents?

14:42:43 11 A. Yes, ma'am.

14:42:44 12 Q. What do you recognize those documents to be?

14:42:47 13 A. They are corporations of the state of Oklahoma.

14:42:53 14 Q. For which entities?

14:42:54 15 A. The 66 Land, LLC and the Zule Farms, LLC.

14:42:59 16 Q. Move for the introduction of Government's Exhibit No. 362A
14:43:07 17 in reflection to 66 Land and 362B in reflection to Zule Farms.

14:43:13 18 MS. WILLIAMS: No objection.

14:43:16 19 THE COURT: They're received. What is T what Farms?

14:43:21 20 THE WITNESS: I'm sorry?

14:43:22 21 THE COURT: What is T -- Zule Farm?

14:43:26 22 THE WITNESS: Zule, Z-U-L-E.

14:43:28 23 THE COURT: Okay.

14:43:29 24 THE WITNESS: I believe he named it after his wife.

14:43:31 25 THE COURT: Yeah. Okay.

14:43:35 1 Q. (BY MS. FERNALD) Zule Farms is the name of the entity; is
14:43:38 2 that correct?

14:43:38 3 A. Uh-huh.

14:43:39 4 Q. And that's contained in B. And then, 66 Land contained in
14:43:46 5 A, correct?

14:43:46 6 A. Yes, ma'am.

14:43:47 7 Q. All right. What was your reaction when these two entities
14:43:56 8 were created?

14:43:59 9 A. Well, I don't really have a reaction. That's what he wanted
14:44:04 10 to do, so that's what we did.

14:44:06 11 Q. Are you aware of whether or not Oklahoma has a state income
14:44:09 12 tax?

14:44:10 13 A. Yes, ma'am. They do.

14:44:11 14 Q. Do you know whether or not how those particular corporations
14:44:16 15 were funded?

14:44:18 16 A. Well, from what we received as information, it was through
14:44:23 17 either horse sales, horse racing, breeding, that sort of thing.

14:44:30 18 Q. Are you familiar with management fees?

14:44:33 19 A. Yes, ma'am.

14:44:34 20 Q. All right. Do you recall whether or not they were funded
14:44:36 21 through management fees?

14:44:37 22 A. Yes, ma'am. Some of them were.

14:44:39 23 Q. Did you ever see any management fee agreements between these
14:44:44 24 two entities or these three entities? Excuse me.

14:44:47 25 A. No, ma'am.

14:44:57 1 Q. Were you aware of the arrest and the seizure in June of
14:45:01 2 2012?

14:45:03 3 A. Yes, ma'am.

14:45:04 4 Q. What was your reaction to that?

14:45:06 5 A. Well, we were shocked. We didn't know.

14:45:10 6 Q. And why were you shocked?

14:45:14 7 A. Well, because of the nature of the arrest and their -- what
14:45:24 8 I saw them taking, they seized over 400 horses, yet, we only had
14:45:29 9 on our records nine when I reviewed it.

14:45:34 10 Q. Do you know prior to 2009, how much money Jose Trevino -- or
14:45:40 11 I should say, prior to the Tempting Dash horse coming in, how
14:45:44 12 much money Jose Trevino-Morales was making a year?

14:45:48 13 A. Around a million dollars. Oh, prior to 2009? I'm sorry.

14:45:54 14 He made 35 to 45,000.

14:45:57 15 Q. A year?

14:45:58 16 A. A year.

14:46:00 17 Q. Do you know whether or not Tremor was the parent company of
14:46:06 18 Zule Farms and 66 Land?

14:46:08 19 A. That's what I felt like. Yes, ma'am.

14:46:10 20 Q. Pass the witness.

14:46:30 21 CROSS-EXAMINATION

14:46:36 22 BY MS. WILLIAMS:

14:46:36 23 Q. Your last name is Moore Crain?

14:46:44 24 A. Yes, ma'am.

14:46:44 25 Q. I had you down on my list as Moore. So that was new to me.

14:46:48 1 A. Okay.

14:46:48 2 Q. My name is Christie Williams.

14:46:51 3 A. Hello.

14:46:52 4 Q. And I represent Mr. Trevino in this case.

14:46:55 5 Are you familiar with a man by the name of Mike Bazilla

14:47:02 6 (phonetic)?

14:47:02 7 A. Yes, ma'am.

14:47:03 8 Q. He's an investigator that works for me?

14:47:05 9 A. Yes.

14:47:05 10 Q. And he came and tried to talk to you before this case.

14:47:07 11 A. Right.

14:47:08 12 Q. Right. And you basically told him no, you wouldn't talk to

14:47:11 13 him; is that right?

14:47:12 14 A. Right.

14:47:13 15 Q. And you did that, as I understand it, because Mr. Fernald,

14:47:20 16 Michael Fernald, told you not to talk to us; is that right?

14:47:25 17 A. Well, ma'am, we were scared. I mean, it's natural.

14:47:33 18 Q. Of?

14:47:34 19 A. Of the cartel.

14:47:39 20 Q. Because of what the government had told you and what I had

14:47:44 21 read?

14:47:44 22 A. Yes, ma'am.

14:47:44 23 Q. And what you had read in the media?

14:47:46 24 A. Yes, ma'am.

14:47:47 25 Q. During time that you helped Mr. Trevino, there was never

14:47:57 1 anything about him that caused you to be afraid?

14:48:00 2 A. No, ma'am.

14:48:01 3 Q. Right?

14:48:02 4 A. That is true.

14:48:06 5 Q. And when he came to you in 2009, did he appear to have ever

14:48:16 6 started his own business before?

14:48:19 7 A. I didn't think so.

14:48:20 8 Q. I'm sorry?

14:48:20 9 A. I didn't think so.

14:48:21 10 Q. You didn't think so.

14:48:22 11 A. No, ma'am.

14:48:23 12 Q. And so, when he came to you, he -- one of the things he

14:48:28 13 wanted was to get his taxes done?

14:48:29 14 A. Right.

14:48:30 15 Q. Because he knew that his tax situation had changed during

14:48:32 16 that year due to winning the race?

14:48:34 17 A. Right.

14:48:34 18 Q. Is that your understanding?

14:48:35 19 A. Yes, ma'am.

14:48:36 20 Q. All right. So he came to you and said, look, I need some

14:48:39 21 help knowing what the right thing is to do.

14:48:41 22 A. Right.

14:48:42 23 Q. And you, during 2009, began to help him in two ways, as I

14:48:49 24 understand it. Number one, you helped prepare the 2009 tax

14:48:52 25 return.

14:48:53 1 A. Okay.

14:48:54 2 Q. Is that right?

14:48:54 3 A. Yes.

14:48:55 4 Q. Okay. And the second thing is that Tracy, I think, who

14:48:59 5 works for you -- what's her last name?

14:49:01 6 A. Pennington.

14:49:02 7 Q. Tracy Pennington began to do the books for Tremor

14:49:07 8 Enterprises?

14:49:07 9 A. Yes.

14:49:08 10 Q. She was their bookkeeper?

14:49:10 11 A. Yes.

14:49:10 12 Q. All right. And so, your interaction was sort of twofold.

14:49:15 13 Number one, let's take care of the taxes and, number two, we have

14:49:18 14 this new business that's just getting off the ground and we want

14:49:21 15 to -- somebody who knows what they're doing to keep the books?

14:49:26 16 A. Yes.

14:49:26 17 Q. All right. So when Mr. Trevino brought you his documents,

14:49:34 18 did he appear to have kept records? Did he have receipts and

14:49:41 19 bills and --

14:49:42 20 A. Yes, ma'am.

14:49:43 21 Q. And every month, he would bring you his bank statement?

14:49:48 22 A. Yes, ma'am.

14:49:49 23 Q. And in that bank statement would be copies of his checks?

14:49:52 24 A. Yes.

14:49:53 25 Q. And his deposits?

14:49:55 1 A. That's true.

14:49:55 2 Q. All right. And so, there would be money coming in and money

14:49:59 3 going out?

14:49:59 4 A. That's true.

14:50:00 5 Q. Right?

14:50:00 6 A. Yes.

14:50:01 7 Q. And it was Tracy's job to put those various deposits and

14:50:08 8 checks into their proper categories?

14:50:10 9 A. Yes, ma'am.

14:50:10 10 Q. All right. When Mr. Trevino first came to you, I think you

14:50:19 11 told the government that he was making 35 or \$45,000?

14:50:24 12 A. I believe so.

14:50:25 13 Q. All right. But his wife also worked?

14:50:27 14 A. Yes.

14:50:27 15 Q. And how much did she make, do you remember?

14:50:30 16 A. No, ma'am. I'm sorry. I don't.

14:50:32 17 Q. But she worked and she made not quite as much as him?

14:50:36 18 A. Twenty-five, 35, somewhere around there.

14:50:39 19 Q. So together, they were making as little as 60 and as much as

14:50:44 20 \$80,000?

14:50:44 21 A. Right.

14:50:46 22 Q. And Mr. Trevino, I think you said, explained to you that his

14:50:55 23 brother Rodolfo -- did you know Rodolfo was living down in Elgin,

14:50:59 24 Texas?

14:51:00 25 A. No.

14:51:01 1 Q. Had given him a hint on this horse and he had bought this
14:51:04 2 horse and won a big race, and they had this money, right? And it
14:51:09 3 was a big sum of money. Do you remember how much it was? Was it
14:51:12 4 \$100,000?

14:51:13 5 A. No. It was closer to half a million dollars.

14:51:16 6 Q. Okay. So they had this sum of money, right? Bigger and
14:51:23 7 different than any money they had previously been dealing with.

14:51:26 8 A. This is true.

14:51:27 9 Q. And they came to you and they said, what do we do?

14:51:30 10 A. Yes.

14:51:31 11 Q. Right?

14:51:32 12 A. They wanted to start a company.

14:51:34 13 Q. Okay. And so, what did you tell them? That we want to
14:51:38 14 start a company.

14:51:40 15 A. Well, you explain the different types of organizations you
14:51:44 16 can do.

14:51:44 17 Q. Okay. So you told them you can form an LLC, a partnership,
14:51:48 18 a corporation?

14:51:49 19 A. Right.

14:51:49 20 Q. And you laid out for them kind of here are the advantages
14:51:56 21 and the disadvantages of these different kinds of companies?

14:51:59 22 A. Yes.

14:51:59 23 Q. And together you made a decision. About what -- or they
14:52:03 24 made a decision based on --

14:52:04 25 A. Of course, it's always the customer's decision.

14:52:08 1 Q. And where was this sum of money at that point? Was it in
14:52:17 2 the bank? Was it in a check? Where was this big sum of race
14:52:21 3 money? Was it in their personal bank account? Do they still
14:52:24 4 have the check?

14:52:24 5 A. I thought it went to Tremor Enterprises.

14:52:26 6 Q. That's what I was asking you. When they first came to you,
14:52:29 7 though, there was no Tremor Enterprises.

14:52:32 8 A. Okay. Then I don't know where the money was.

14:52:34 9 Q. Okay. So let's assume that it was in their personal bank
14:52:43 10 account because, right, they didn't have a Tremor Enterprises
14:52:45 11 bank account.

14:52:46 12 A. Okay.

14:52:46 13 Q. Right?

14:52:47 14 A. Okay.

14:52:47 15 Q. Well, don't say okay. I don't mean to jump on you, but I'm
14:52:53 16 asking you the question.

14:52:55 17 There was no Tremor Enterprises bank account when they
14:52:57 18 came to see you; is that right?

14:52:58 19 A. That's true.

14:52:59 20 Q. Okay. So when they came to you, it was either in some sort
14:53:05 21 of check or it was in their personal bank account, because it
14:53:08 22 couldn't have been in the Tremor Enterprises bank account, right?

14:53:11 23 A. Yes.

14:53:11 24 Q. Okay. Do you remember what you told them about what to do
14:53:16 25 with the money?

14:53:20 1 A. No, ma'am.

14:53:21 2 Q. Some money needed to go into Tremor, LLC to start the

14:53:27 3 company, right?

14:53:27 4 A. I thought the check was made out to Tremor Enterprises.

14:53:30 5 Q. Okay.

14:53:32 6 A. That's what I thought.

14:53:33 7 Q. Okay. I'll look at that in a minute. I bet the Judge will

14:54:23 8 give me a break here in a minute and I'll be able to find what

14:54:25 9 we're looking for without taking up our time.

14:54:27 10 After -- at what point did you tell Mr. Trevino that he

14:54:36 11 probably needed to also consult with Mr. Fischer? Do you

14:54:41 12 remember approximately when that was?

14:54:44 13 A. I believe it was in mid-2011. Somewhere around there.

14:54:52 14 Q. So for almost two years, you and your staff helped run this

14:54:59 15 business, helped do the bookkeeping for this business?

14:55:02 16 A. Yes, ma'am.

14:55:02 17 Q. You didn't actually run the business, but you did their

14:55:05 18 bookkeeping?

14:55:05 19 A. Yes, ma'am.

14:55:06 20 Q. And then, by that point there was enough money coming in and

14:55:08 21 going out that you felt like you needed -- they needed more

14:55:12 22 expert help?

14:55:12 23 A. Yes, ma'am.

14:55:13 24 Q. Was that before or after 66 Land and Zule Farms were formed?

14:55:22 25 A. It was before.

14:55:26 1 Q. So you don't have any knowledge of why or what the process
14:55:29 2 was for creating those companies. That would have been Mr.
14:55:33 3 Fischer?

14:55:34 4 A. No, ma'am. I don't know why he created the companies.

14:55:39 5 Q. Because that was done after they were talking to Mr. Fisher?

14:55:42 6 A. Yes. He just -- Mr. Trevino asked us to form the company,
14:55:46 7 so I called Allen and asked him to help.

14:55:52 8 Q. And is Mr. Fischer somebody that you referred other clients
14:55:57 9 to over the years?

14:55:58 10 A. Oh, yes, ma'am.

14:55:59 11 Q. It's not unusual for a smaller firm to get a bigger client
14:56:03 12 and say, oh, now you've kind of grown beyond where we can really
14:56:07 13 help you. We can still help you with your bookkeeping, but we've
14:56:10 14 kind of gone beyond where I want to help you with your taxes.
14:56:13 15 You kind of need to move on to a CPA?

14:56:15 16 A. Yes, ma'am.

14:56:15 17 Q. And so, even after Mr. Fischer took over the taxes for the
14:56:24 18 Trevinos and their companies, you continued to do the bookkeeping
14:56:27 19 work?

14:56:27 20 A. Yes.

14:56:28 21 Q. And even after there was land purchased in Oklahoma, they
14:56:39 22 continued to use you for bookkeeping?

14:56:41 23 A. Yes.

14:56:42 24 Q. And would the -- would they continue to bring their bank
14:56:50 25 statements --

14:56:50 1 A. Yes.

14:56:50 2 Q. -- to you? Every month?

14:56:52 3 A. Yes.

14:56:53 4 Q. And would they bring, also, receipts?

14:56:58 5 A. Yes.

14:56:59 6 Q. Receipts for what kind of things?

14:57:01 7 A. Well, I didn't actually see them.

14:57:04 8 Q. Tracy did?

14:57:05 9 A. Tracy did. And, you know, like she would have told me if

14:57:09 10 she would have seen something out of the ordinary, she would have

14:57:12 11 told me.

14:57:13 12 Q. And that never happened?

14:57:14 13 A. No, ma'am.

14:57:16 14 Q. There was never one reason for you to think anything was

14:57:19 15 amiss?

14:57:20 16 A. That's true.

14:57:23 17 Q. I'll pass the witness.

14:57:27 18 MR. DEGEURIN: No questions, Judge.

14:57:30 19 MR. WOMACK: No questions, your Honor.

14:57:32 20 MR. ESPER: I have none, your Honor.

14:57:33 21 MR. MAYR: Neither do I, your Honor.

14:57:35 22 THE COURT: Any redirect?

14:57:36 23 MS. FERNALD: Yes, your Honor.

14:57:36 24

14:57:38 25

14:57:38 1 RE-DIRECT EXAMINATION

14:57:38 2 BY MS. FERNALD:

14:57:46 3 Q. Ms. Moore Crain, just to clarify the point. Would you only
14:57:52 4 record what Trevino-Morales' individuals would bring into your
14:57:58 5 office with Tremor? Were they supplying you with the
14:58:00 6 information?

14:58:00 7 A. Yes.

14:58:01 8 Q. There was a question about a private investigator visiting
14:58:09 9 with you for Mr. Trevino-Morales. You want to tell the jury
14:58:14 10 about that?

14:58:15 11 A. Well, they -- he came into my office and, of course, they
14:58:21 12 came during tax time. It's very busy. And so, I didn't talk to
14:58:27 13 him then and, like I said, we were afraid.

14:58:34 14 Q. Did they ask for you to sign any documents?

14:58:37 15 A. Yeah. They said they were going to fax me something about
14:58:42 16 me not having to testify or something. I don't know. Or they
14:58:47 17 were going to e-mail it to me.

14:58:48 18 Q. When you initially got a phone call from the government, the
14:58:53 19 Special Agent Michael Fernald, were you afraid then?

14:58:55 20 A. I was very afraid.

14:58:58 21 Q. What did you do? Who did you contact prior to talking to
14:59:01 22 any agent in this case?

14:59:04 23 A. Allen Fischer.

14:59:06 24 Q. And did Mr. Fischer advise for you to call an attorney?

14:59:11 25 MR. DEGEURIN: Your Honor, really is not my witness,

14:59:12 1 but that's hearsay.

14:59:15 2 MS. FERNALD: I'll rephrase the question.

14:59:17 3 Q. (BY MS. FERNALD) Did you contact an attorney to make sure
14:59:19 4 that you were okay?

14:59:20 5 A. Yes, I did.

14:59:21 6 Q. Why did you do that?

14:59:23 7 A. Because it's my livelihood and I was afraid.

14:59:28 8 Q. And did you consult with your attorney -- did you consult
14:59:34 9 with your attorney on whether or not you should talk to these
14:59:38 10 parties?

14:59:39 11 A. Yes.

14:59:41 12 Q. Including the government?

14:59:42 13 A. Yes.

14:59:43 14 MR. DEGEURIN: Your Honor, may we -- it's really not my
14:59:46 15 dog in the fight, but I think we need to approach at this point.

14:59:50 16 THE COURT: Okay. Get an afternoon break. At least 15
15:00:01 17 minutes. Use the facilities, remember the instructions. Ma'am,
15:00:34 18 I'm going to ask you to step out in the hall.

15:00:36 19 THE WITNESS: Sure.

15:00:36 20 THE COURT: Don't go far.

15:00:38 21 THE WITNESS: I won't.

15:00:39 22 (Jury not present.)

15:00:58 23 THE COURT: Okay. Mr. DeGeurin, you have the floor.

15:01:01 24 You said it's not your dog in the fight. That hadn't stopped any
15:01:05 25 of the lawyers from cross-examining witnesses when their clients

15:01:09 1 haven't even been mentioned in the direct. So everybody is in
15:01:15 2 that same bus. But what is the deal?

15:01:17 3 MR. DEGEURIN: They're asking her what her reaction was
15:01:20 4 when the police called her or when the agent called her. And
15:01:24 5 then, she went to see a lawyer, and why she did when she was
15:01:28 6 frightened because of the cartel is irrelevant, it's prejudicial.
15:01:33 7 The probative value is outweighed by the prejudicial effect. For
15:01:38 8 all those reasons.

15:01:39 9 THE COURT: It came on cross-examination.

15:01:42 10 MR. DEGEURIN: Not whether she was frightened.

15:01:44 11 THE COURT: Yes, it did, as to why she didn't talk with
15:01:47 12 the investigator for Mr. Morales. That's when it all came in.
15:01:56 13 And the question didn't ask for attorney-client privilege. I
15:02:02 14 would think to leave it alone, but that's y'all -- you gentlemen
15:02:06 15 and ladies' decision one way or the other.

15:02:08 16 MR. DEGEURIN: Well, if --

15:02:10 17 THE COURT: Nothing came in about fear. Nothing came
15:02:14 18 in about any organization on direct examination. I can't
15:02:23 19 control -- as much as I'd like to control you lawyers, I can't do
15:02:27 20 it.

15:02:28 21 MR. DEGEURIN: Well, then I am -- I request not to go
15:02:33 22 there. Might leave everything alone as it is because it might go
15:02:40 23 away.

15:02:42 24 (The Court holding up crystal ball.)

15:02:46 25 THE COURT: Anybody else want to make a comment before

15:02:47 1 you take a break? Fifteen minutes.

15:12:25 2 (Recess.)

15:18:00 3 THE COURT: You may be seated.

15:18:11 4 MS. FERNALD: Your Honor, are you ready for the

15:18:13 5 witness?

15:18:14 6 THE COURT: I am. Have a seat, ma'am. We'll bring the

15:18:58 7 jury in right now.

15:19:02 8 (Jury present.)

15:20:13 9 THE COURT: You understand, ma'am, you're still under

15:20:36 10 oath?

15:20:36 11 THE WITNESS: Yes, sir.

15:20:36 12 THE COURT: Okay.

15:20:37 13 Q. (BY MS. FERNALD) I'm going to re-ask the question.

15:20:40 14 Did you consult with an attorney prior to talking to

15:20:44 15 either the government or to the defendant?

15:20:47 16 A. Yes, I did.

15:20:48 17 Q. And what was his name?

15:20:49 18 A. William Kunofsky.

15:20:52 19 Q. And in review of Tremor's business, did you have any

15:20:58 20 concerns about the money going through?

15:21:05 21 A. Concerns?

15:21:05 22 Q. Uh-huh.

15:21:06 23 A. I don't understand the question. I'm sorry.

15:21:07 24 Q. We had a conversation last night in which you were concerned

15:21:11 25 about how much money was flowing through.

15:21:13 1 A. There was a lot of money going through the accounts. But he
15:21:17 2 had one a horse race, too, in '11. I believe it was '11. I'm
15:21:25 3 lost on the years now. I'm sorry. May have been '10.
15:21:27 4 Q. A lot of money flowing through?
15:21:29 5 A. Yes, ma'am.
15:21:30 6 Q. Pass the witness, your Honor.
15:21:35 7 THE COURT: Did I start without Ms. Williams?
15:21:37 8 MS. WILLIAMS: I'm sorry. I don't have any further
15:21:40 9 questions.
15:21:40 10 MR. DEGEURIN: No further questions.
15:21:41 11 MR. WOMACK: No, sir.
15:21:42 12 MR. ESPER: None, your Honor.
15:21:44 13 MR. MAYR: None.
15:21:44 14 THE COURT: May this witness be excused?
15:21:51 15 THE WITNESS: Thank you.
15:21:55 16 THE COURT: Call your next witness.
15:21:57 17 MR. GARDNER: Government would call Ms. Alejandra
15:22:07 18 Obregon.
15:22:41 19 THE COURT: If you'll come this way, please. This is
15:22:43 20 Mrs. Sims and she's going to administer an oath to you, ma'am.
15:22:51 21 (Witness sworn.)
15:22:57 22 MR. GARDNER: Your Honor, can we approach before
15:22:58 23 questioning?
15:23:04 24 THE COURT: Sure.
15:23:04 25 (At the bench, on the record.)

15:23:11 1 MR. GARDNER: Your Honor, as per the Court's request,
15:23:17 2 I've been sending the defense attorneys the witnesses for
15:23:19 3 tomorrow. I sent them the list last night, and I did not exclude
15:23:23 4 Ms. Obregon on that list. So that's my fault. There's nothing
15:23:27 5 intentional violation.

15:23:30 6 MR. DEGEURIN: And I accept that completely, but it's
15:23:33 7 -- I don't even know who she is at this moment.

15:23:35 8 MR. GARDNER: Your Honor, I did provide all defense
15:23:37 9 counsel, an hour ago, the 302 statement by Scott Lawson of his
15:23:42 10 interview with Ms. Alejandra. So they have any Jencks material
15:23:48 11 by her.

15:23:48 12 MR. DEGEURIN: I don't have a dog in the fight.

15:23:52 13 MR. GARDNER: Then why'd you come up here then?

15:23:54 14 MR. DEGEURIN: Because I didn't know about that. At
15:24:02 15 this point, I don't even know my dog's name.

15:24:03 16 MR. GARDNER: The only one that she had --

15:24:06 17 THE COURT: No, no. So he's not involved. Does
15:24:09 18 anybody else have any hesitation about that? All right. Let's
15:24:13 19 proceed.

15:24:39 20 Ma'am, if you'll tell me your full name and spell your
15:24:43 21 last, but I need you to talk into the microphone.

15:24:47 22 THE WITNESS: Alejandra Obregon.

15:24:47 23 ALEJANDRA OBREGON, called by the Government, duly sworn.

15:24:47 24

15:24:54 25

15:24:54 1 DIRECT EXAMINATION

15:24:54 2 BY MR. GARDNER:

15:24:55 3 Q. Ms. Obregon, you and I have met before; is that correct?

15:24:57 4 A. Yes.

15:24:58 5 Q. And if you will, could you introduce yourself for the jury?

15:25:00 6 Tell them what you do for a living and where you live.

15:25:02 7 A. My name is Alejandra Obregon. I'm a staff accountant in

15:25:06 8 Texas.

15:25:07 9 Q. And could you explain to them a little bit of your education

15:25:10 10 and your work experience?

15:25:13 11 MR. ESPER: Your Honor, could we ask the Court if the

15:25:15 12 witness could speak up a little.

15:25:19 13 THE WITNESS: I'm sorry.

15:25:25 14 MR. ESPER: Thank you, your Honor.

15:25:27 15 Q. (BY MR. GARDNER) I'll repeat the question. I know you're

15:25:45 16 nervous. Just take your time.

15:25:48 17 I think the question was, could you let the ladies and

15:25:52 18 gentlemen of the jury know a little bit about your education and

15:25:53 19 work experience?

15:25:55 20 A. Yes. I'm a staff accountant with an accounting firm. I've

15:26:00 21 been there for 17 years and my -- I have a Bachelor's Degree in

15:26:08 22 Accounting.

15:26:09 23 Q. And are you a Certified Public Accountant?

15:26:11 24 A. No. I'm not.

15:26:12 25 Q. And in your job at your accounting firm, what are your

15:26:17 1 duties on a day-to-day basis?

15:26:19 2 A. To prepare financial statements, personal tax returns,

15:26:23 3 business tax returns, meet with clients, help them organize their

15:26:32 4 bookkeeping records.

15:26:34 5 Q. And are many of your clients longstanding clients in the

15:26:37 6 community that you service on a yearly basis?

15:26:40 7 A. I'm sorry, I don't understand the question.

15:26:43 8 Q. Are many of your clients in your accounting firm, those

15:26:46 9 individuals that have been with the firm for a long time?

15:26:50 10 A. Yes.

15:26:51 11 Q. And do you do their yearly taxes, both personal and

15:26:55 12 business, if needed?

15:26:56 13 A. Yes.

15:26:57 14 Q. I want to turn your attention to an incident in which an

15:27:03 15 individual by the name of Victor Lopez came to your place. Do

15:27:06 16 you recall that?

15:27:06 17 A. Yes.

15:27:06 18 Q. I'm going to show you a picture of Government's Exhibit

15:27:14 19 335H. Do you recognize that man as the Victor Lopez just

15:27:17 20 described?

15:27:18 21 A. Yes.

15:27:46 22 Q. Again, Ms. Obregon, this video on the screen in front of

15:27:49 23 you, that is Victor Lopez?

15:27:51 24 A. Yes.

15:27:51 25 Q. Could you tell the ladies and gentlemen of the jury when you

15:27:53 1 first met him?

15:27:57 2 A. Not exactly. I don't have an exact date.

15:27:59 3 Q. How about the year?

15:28:01 4 A. The year, 2011.

15:28:02 5 Q. Okay. And did he come to the offices of your accounting

15:28:05 6 firm?

15:28:05 7 A. Yes.

15:28:06 8 Q. And how did it come to pass that you were the one that met

15:28:11 9 him?

15:28:13 10 A. I was assigned to his client.

15:28:17 11 Q. And is that the way it normally works? You get assigned to

15:28:20 12 clients?

15:28:21 13 A. Yes.

15:28:21 14 Q. And did you, in fact, meet with Mr. Lopez?

15:28:23 15 A. Yes, I did.

15:28:23 16 Q. Okay. And what did Mr. Lopez ask you to do?

15:28:28 17 A. He was inquiring about how to open a new business.

15:28:32 18 Q. And was it a business for him or for others?

15:28:36 19 A. At the time, I believe it was for him.

15:28:39 20 Q. And did you, in fact, open a business for him?

15:28:42 21 A. Yes.

15:28:43 22 Q. And do you recall the name of that business?

15:28:46 23 A. Desiree Princess Ranch and Poker Ranch.

15:28:51 24 Q. So was Desiree Princess Ranch and Poker Ranch one business

15:28:55 25 or two businesses?

15:28:56 1 A. Two businesses.

15:28:57 2 Q. Showing you Government's Exhibit 317. And you and I went

15:29:07 3 through these, did you not?

15:29:08 4 A. Yes.

15:29:08 5 Q. And are these the business records of the accounting firm of

15:29:12 6 Carranco & Lawson?

15:29:12 7 A. Yes.

15:29:13 8 Q. Your Honor, I'd offer Government's Exhibit 317. It does

15:29:20 9 have a copy of business records affidavit. It is Bates stamp No.

15:29:24 10 55 and 61.

15:29:34 11 MS. WILLIAMS: I didn't hear the second one.

15:29:36 12 MR. GARDNER: Fifty-five and 61.

15:29:58 13 MS. FERNALD: I'm sorry. I was looking at the wrong

15:30:01 14 one. I'm sorry. It's just 55.

15:30:03 15 MR. GARDNER: I've been informed, your Honor, it's just

15:30:06 16 Bates stamp 55.

15:30:33 17 MR. SANCHEZ: No objection.

15:30:34 18 THE COURT: All right. 317 is admitted.

15:30:42 19 Q. (BY MR. GARDNER) Now, you and I reviewed this prior to you

15:30:46 20 coming to testify here this afternoon, correct?

15:30:49 21 A. Yes.

15:30:54 22 Q. And what is this document, Ms. Obregon?

15:31:03 23 A. That's an article of incorporation.

15:31:05 24 Q. And was that for the Desirée Princess Ranch?

15:31:08 25 A. Yes.

15:31:08 1 Q. And, again, was that Mr. Lopez who approached you with those
15:31:11 2 documents?

15:31:11 3 A. Yes.

15:31:12 4 Q. Did your accounting firm prepare these documents?

15:31:16 5 A. No.

15:31:17 6 Q. And do you know who prepared these documents?

15:31:19 7 A. Yes.

15:31:19 8 Q. And who was that?

15:31:20 9 A. That was Mr. Alarcon.

15:31:23 10 Q. And who is he?

15:31:24 11 A. He's an attorney in Texas.

15:31:26 12 Q. Now, is he someone that your firm works with on a regular
15:31:30 13 basis?

15:31:30 14 A. Yes.

15:31:31 15 Q. And why is that?

15:31:33 16 A. We refer clients to him or he refers clients to the
15:31:38 17 accounting firm.

15:31:39 18 Q. And on this occasion, do you recall whether or not he
15:31:43 19 referred Mr. Lopez to you or you referred Mr. Lopez to him?

15:31:47 20 A. Mr. Lopez was referred to us.

15:31:51 21 Q. To us from the lawyer?

15:31:53 22 A. From -- yes.

15:31:54 23 Q. And so, Desiree Princess Ranch is one and you said the other
15:31:58 24 one was Poker Ranch; is that correct?

15:31:59 25 A. Yes.

15:32:00 1 Q. Is that certificate of filing for Poker Ranch, LLC?

15:32:11 2 A. Yes.

15:32:11 3 Q. And did Mr. Lopez ever tell you the reason why he wanted to

15:32:16 4 establish these two companies?

15:32:18 5 A. They were for horse racing.

15:32:21 6 Q. And were these companies established in the name of Victor

15:32:23 7 Lopez as either the president or the manager of these companies?

15:32:27 8 A. No.

15:32:27 9 Q. And do you recall who was responsible for these two

15:32:32 10 companies?

15:32:36 11 A. Not exactly. No.

15:32:38 12 Q. Was one -- do you recall the name Mr. Gomez, Ochoa-Gomez?

15:32:44 13 A. Yes.

15:32:44 14 Q. And do you recall the other one, Mr. Cabrera-Del la Vega?

15:32:47 15 A. Yes.

15:32:48 16 Q. And did you ever meet with these two gentlemen?

15:32:51 17 A. Yes.

15:32:51 18 Q. And how many times did you meet with them?

15:32:54 19 A. One time.

15:32:55 20 Q. Okay. What was that purpose for?

15:32:58 21 A. They needed to come in to sign a W-7.

15:33:01 22 Q. And could you let the ladies and gentlemen of the jury you

15:33:03 23 know what a W-7 is?

15:33:04 24 A. A W-7 is when a foreigner does not have a Social Security

15:33:10 25 number, they need to file a tax return in the United States, they

15:33:14 1 need to apply for -- it's called an ITN number.

15:33:19 2 Q. And what does ITN number stand for?

15:33:21 3 A. Individual Taxpayer Identification number.

15:33:26 4 Q. And that's the same thing as Social Security number for

15:33:30 5 foreign persons?

15:33:31 6 A. Yes.

15:33:31 7 Q. Okay. When you were visiting with Mr. Cabrera and Mr.

15:33:37 8 Ochoa-Gomez, what was their level of interest in either Poker

15:33:44 9 Ranch or Desiree Princess Ranch?

15:33:47 10 A. They didn't seem to have any questions.

15:33:49 11 Q. And the companies had already been established at that

15:33:52 12 point?

15:33:52 13 A. Yes.

15:33:53 14 Q. And did you provide them with a W-7 form?

15:33:56 15 A. Yes, I did.

15:33:56 16 Q. Did you provide them with instructions on what they needed

15:34:00 17 to do with it?

15:34:00 18 A. Yes.

15:34:00 19 Q. And what were those instructions?

15:34:02 20 A. A W-7 normally is filed with their personal tax return, and

15:34:08 21 in this case, they didn't have anything to report. So we

15:34:14 22 requested a letter from the bank where they were supposed to open

15:34:20 23 an interest-bearing account. And I had requested that letter

15:34:26 24 from the bank and they never brought it in.

15:34:28 25 Q. So if I understand your testimony, you gave them the W-7.

15:34:33 1 A. Uh-huh.

15:34:34 2 Q. Told them they needed to go to the bank?

15:34:36 3 A. Right.

15:34:38 4 Q. And then, return to you with what?

15:34:38 5 A. With the letter stating from the bank that they needed to

15:34:41 6 file for an ITN number.

15:34:44 7 Q. And did either Mr. Cabrera-De la Vega or Mr. Ochoa-Gomez

15:34:50 8 ever return with that number?

15:34:51 9 A. No.

15:34:52 10 Q. Dealing with these two accounts for Desiree Princess Ranch

15:34:57 11 and for Poker Ranch, who was the individual you had the most

15:34:59 12 contact with?

15:35:01 13 A. Victor Lopez.

15:35:04 14 Q. And in what manner or what conversations did you have

15:35:08 15 contact with Mr. Lopez?

15:35:10 16 A. Mostly inquiries on how to go about opening the business,

15:35:17 17 what was needed to be filed, the requirement.

15:35:22 18 Q. Let me show you Government's Exhibit 335E. Do you recognize

15:35:26 19 that?

15:35:27 20 A. Yes.

15:35:28 21 Q. And who is that?

15:35:29 22 A. Mr. Carlos Nayen.

15:35:32 23 Q. And, again, for the jury, that's Mr. Carlos Nayen?

15:35:45 24 A. Yes.

15:35:46 25 Q. All right. When did you meet him?

15:35:48 1 A. Back in 2011.

15:35:50 2 Q. And did he come to you to form a company, as well?

15:35:54 3 A. Yes.

15:35:55 4 Q. Now, how far after the formation of the other two, Desiree

15:36:00 5 Princess Ranch and Poker Ranch, did you see Mr. Nayen?

15:36:04 6 A. Months later.

15:36:06 7 Q. Same year, though?

15:36:07 8 A. Yes.

15:36:07 9 Q. Okay. And for what reason did he request to establish a

15:36:12 10 company?

15:36:12 11 A. Horse racing.

15:36:13 12 Q. And do you remember the name of that company?

15:36:15 13 A. Carmina, LLC.

15:36:23 14 Q. And, your Honor, I apologize. The first document I showed

15:36:27 15 her was Bates stamp 55-486 that was Desiree Princess Ranch for

15:36:32 16 the record. The second document was 55-587, that's Poker Ranch.

15:36:45 17 THE COURT: And what is the third one that you just

15:36:48 18 mentioned?

15:36:48 19 THE WITNESS: Carmina, LLC.

15:36:58 20 Q. (BY MR. GARDNER) Carmina, LLC right here, is that the

15:37:01 21 spelling of the company formed by Carlos Nayen?

15:37:04 22 A. Yes.

15:37:04 23 Q. Your Honor, for the record, that's 55-770.

15:37:08 24 Now, what interaction did you have with Mr. Nayen

15:37:11 25 regarding the establishment of Carmina, LLC?

15:37:14 1 A. He came in one day to sign his personal tax return.

15:37:21 2 Q. And did you have previous problems communicating with Mr.

15:37:24 3 Nayen?

15:37:25 4 A. Yes.

15:37:26 5 Q. Did Mr. Nayen have a cellphone number in which he could be

15:37:30 6 contacted?

15:37:30 7 A. Not for him. But he gave me a friend's cellphone number.

15:37:34 8 Q. And how was your -- or what was the manner of your -- I'm

15:37:39 9 sorry. Getting ahead of myself.

15:37:41 10 If you couldn't communicate with him by phone, how did

15:37:44 11 you communicate with Mr. Nayen?

15:37:46 12 A. By e-mail.

15:37:47 13 Q. And when he came in that one day to fill out his tax

15:37:52 14 returns, were you able to obtain a phone number?

15:37:55 15 A. Yes.

15:37:56 16 Q. And was it his friend?

15:37:57 17 A. Yes.

15:37:58 18 Q. And did you write that down somewhere?

15:37:59 19 A. Yes. I did.

15:38:00 20 Q. Okay. You've seen that before coming here to testify this

15:38:03 21 afternoon?

15:38:03 22 A. Yes.

15:38:04 23 Q. Ms. Obregon, I'm showing you page 55-846. Is that your

15:38:17 24 handwriting there where it says, Fernando?

15:38:19 25 A. Yes, it is.

15:38:20 1 Q. Okay. Is this your handwriting where it says, Arizona?

15:38:23 2 A. Yes.

15:38:23 3 Q. Was this the number that this man gave you?

15:38:30 4 A. Yes.

15:38:31 5 Q. All right. And how did he identify this Fernando?

15:38:36 6 A. Just by his first name.

15:38:38 7 Q. Did he give you no last name?

15:38:40 8 A. No.

15:38:41 9 Q. Okay. With respect to this word here, "Arizona," why did

15:38:47 10 you write that down?

15:38:48 11 A. I asked him what area code he had for the phone number, and

15:38:54 12 he told me it was from Arizona.

15:38:55 13 Q. So you're telling me that you asked him if the 520 area code

15:39:00 14 was an Arizona area code?

15:39:02 15 A. Yes.

15:39:02 16 Q. Now, was there any time when Mr. Lopez had any involvement

15:39:07 17 with Carmina, LLC?

15:39:09 18 A. There was that one time that he came into our firm, and he

15:39:16 19 requested correspondence for Carmina, LLC.

15:39:20 20 Q. And did you provide that to him?

15:39:22 21 A. No. I did not. I asked him if it was okay for me to

15:39:25 22 confirm with Mr. Nayen before we could provide that information.

15:39:29 23 Q. What was Mr. Lopez's response?

15:39:31 24 A. Yes. Oh, he said that was fine.

15:39:35 25 Q. And did Mr. -- or how did you contact Mr. Nayen to see if

15:39:40 1 Mr. Lopez could involve himself with Carmina?

15:39:43 2 A. Via e-mail.

15:39:44 3 Q. And did you ever get a response?

15:39:46 4 A. I don't recall.

15:39:47 5 Q. And was Mr. Lopez gone at that point?

15:39:50 6 A. Yes. When I came back, he was gone.

15:39:55 7 Q. And with respect to the accounts, your accounting purpose

15:40:00 8 there at the firm, did you have the opportunity to review the

15:40:03 9 bank accounts of Desiree Princess Ranch?

15:40:06 10 A. No.

15:40:07 11 Q. And the bank accounts of Poker Ranch?

15:40:09 12 A. No.

15:40:10 13 Q. And the bank accounts of Carmina, LLC?

15:40:12 14 A. Yes.

15:40:13 15 Q. Okay. Could you please tell the ladies and gentlemen of the

15:40:16 16 jury what amounts, to the best of your recollection, you recall

15:40:19 17 going in and out of Carmina, LLC?

15:40:23 18 A. I don't recall the amounts.

15:40:30 19 Q. Now, in the business records, there is a retainer fee paid.

15:40:34 20 In fact, it's on the first page. And it shows a retainer fee

15:40:47 21 paid for by Desiree Princess Ranch for 500 and Poker Ranch for

15:40:52 22 500. Would you agree with me that the numbers on your receipts

15:40:58 23 are in sequence?

15:40:58 24 A. Right.

15:41:00 25 Q. Do you know who paid those retainer fees?

15:41:02 1 A. Victor Lopez.

15:41:05 2 Q. That's all the questions I have, your Honor. I pass the

15:41:08 3 witness.

15:41:09 4 MS. WILLIAMS: No questions.

15:41:12 5 MR. DEGUERIN: No questions, your Honor.

15:41:14 6 MR. WOMACK: I do, your Honor.

15:41:15 7 CROSS-EXAMINATION

15:41:15 8 BY MR. WOMACK:

15:41:19 9 Q. Ms. Obregon, do you know this gentleman standing next to me?

15:41:22 10 A. I'm sorry?

15:41:23 11 Q. Do you know this man standing next to me?

15:41:24 12 A. No. I do not.

15:41:25 13 Q. You've never met him before, have you?

15:41:27 14 A. No.

15:41:27 15 Q. He's never been at your accounting firm?

15:41:29 16 A. No.

15:41:32 17 Q. These three entities you talked about, Carmina, LLC, that

15:41:42 18 was a company owned by Carlos Nayen?

15:41:45 19 A. That's correct.

15:41:46 20 Q. And it was your understanding it was involving a horse

15:41:48 21 racing?

15:41:49 22 A. Yes.

15:41:49 23 Q. Poker Ranch, LLC, that was also a horse-racing company,

15:41:55 24 wasn't it?

15:41:55 25 A. Yes.

15:41:56 1 Q. And who owned that one? Is that Mr. Cabrera?

15:42:03 2 A. I'm not sure which one owned which company.

15:42:09 3 Q. Do you remember the name Armando Cabrera-De la Vega?

15:42:12 4 A. Yes.

15:42:12 5 Q. And he owned one of the two companies, either Poker Ranch or

15:42:16 6 Desiree Princess, LLC?

15:42:17 7 A. Yes.

15:42:19 8 Q. And do you recall that there was also a Jorge Ochoa-Gomez?

15:42:23 9 A. Yes.

15:42:24 10 Q. And together -- well, not together. He and Mr. Cabrera

15:42:30 11 owned these two companies. One owned Poker Ranch and the other

15:42:33 12 owned Desiree Princess, LLC?

15:42:36 13 A. Correct. Yes.

15:42:38 14 Q. Okay. The first answer didn't come over the microphone for

15:42:42 15 some reason.

15:42:42 16 A. Oh, okay.

15:42:43 17 Q. To your knowledge, all three were horse-racing entities?

15:42:49 18 A. Yes.

15:42:50 19 Q. And Mr. Nayen, when he told you that -- gave you his phone

15:42:55 20 number for a man named Fernando in Arizona, did he tell you that

15:42:59 21 Fernando is someone that trains race horses for all three

15:43:03 22 companies?

15:43:03 23 A. No.

15:43:03 24 Q. He just said, here's a number you can reach me at?

15:43:05 25 A. Correct.

15:43:06 1 Q. Thank you. No further question, your Honor.

15:43:09 2 MR. ESPER: I've got none, your Honor.

15:43:11 3 MR. MAYR: None, your Honor.

15:43:12 4 THE COURT: Any redirect?

15:43:13 5 MR. GARDNER: Briefly, your Honor.

15:43:14 6 RE-DIRECT EXAMINATION

15:43:14 7 BY MR. GARDNER:

15:43:19 8 Q. Ms. Obregon, I probably should have shown this to you in the
15:43:22 9 beginning, page 587. If I put the page of 588, it shows that
15:43:27 10 Jose Luis Ochoa-Gomez is the owner of Desiree Princess Ranch,
15:43:33 11 correct?

15:43:33 12 A. Yes.

15:43:33 13 Q. I'm sorry. I messed that up. Let me start over.

15:43:51 14 Could I go to 486? That's Desiree Princess Ranch,
15:43:56 15 correct?

15:43:56 16 Q.

15:43:56 17 A. Yes.

15:43:56 18 Q. I have flipped the page to that. Desiree Princess Ranch is
15:44:01 19 owned by Armando Cabrera-De la Vega?

15:44:04 20 A. Yes.

15:44:05 21 Q. And then, when I go to Poker Ranch here and then, flip the
15:44:20 22 page to 588, that shows Jose Luis Ochoa-Gomez?

15:44:25 23 A. Yes.

15:44:28 24 Q. And then, finally, Carmina right there on page 770, when I
15:44:40 25 flip the page, the owner is Carlos Miguel Nayen-Borbolla?

15:44:47 1 A. Yes.

15:44:48 2 Q. Ms. Obregon, that's all the questions I have. Thank you.

15:44:51 3 THE COURT: May this witness be excused?

15:44:53 4 MS. WILLIAMS: (Moving head up and down.)

15:44:55 5 MR. WOMACK: Yes, your Honor.

15:44:56 6 THE COURT: You may be excused.

15:45:15 7 MR. GARDNER: Your Honor, the government calls Marciel

15:45:19 8 Reyes.

15:45:49 9 (Witness sworn.)

15:46:02 10 THE COURT: Tell us, please, sir, your full name and

15:46:11 11 spell your last.

15:46:12 12 THE WITNESS: My name is Marciel Reyes, R-E-Y-E-S.

15:46:17 13 THE COURT: Now, we had a little trouble with the

15:46:19 14 microphone -- yeah. That will be fine. All right.

15:46:23 15 MARCIEL REYES, called by the Government, duly sworn.

15:46:23 16 DIRECT EXAMINATION

15:46:23 17 BY MR. GARDNER:

15:46:23 18 Q. Thank you, your Honor.

15:46:24 19 If you will, could you please explain to the jury what

15:46:27 20 you do for a living, sir?

15:46:28 21 A. Yes. I'm a U.S. Customs and Border Protection officer. I'm

15:46:32 22 stationed at the Dallas-Fort Worth International Airport. My job

15:46:35 23 is to talk to and search incoming passengers, international

15:46:44 24 passengers or their belongings, their possessions, cargo,

15:46:48 25 anything that they have on them.

15:46:49 1 Q. And the Dallas-Fort Worth Airport is an international
15:46:54 2 point-of-entry; is that correct?

15:46:54 3 A. Yes, sir. That's correct.

15:46:55 4 Q. Flights come in from various countries to include Mexico?

15:46:58 5 A. Yes, sir. Correct.

15:46:59 6 Q. And how long have you been stationed there, sir?

15:47:01 7 A. Nine-and-a-half years.

15:47:03 8 Q. And when you say you search individuals, I want to refer to
15:47:07 9 a term called "pocket trash." Are you familiar with that term?

15:47:10 10 A. Yes, sir.

15:47:10 11 Q. Could you please explain that term for the jury?

15:47:13 12 A. Pocket trash, pretty much what it sounds like. Anything
15:47:17 13 inside passengers' pockets that they have in their possession.
15:47:20 14 But pocket trash can also include stuff that they have on
15:47:24 15 electronic devices, laptops, computers, phones, cameras.

15:47:30 16 Q. Okay. And does the law allow you to conduct a search of
15:47:34 17 individuals entering the country?

15:47:35 18 A. Yes, sir. It's under the border search authority.

15:47:39 19 Q. Does the law allow you to search just domestic passengers
15:47:43 20 going back and forth between different cities?

15:47:44 21 A. No, sir. Only international passengers, arriving and
15:47:48 22 departing.

15:47:49 23 Q. Do you commonly search pocket trash?

15:47:51 24 A. Yes, sir.

15:47:51 25 Q. What's the purpose of that?

15:47:54 1 A. Our job as customs also is a mediator. We're in the middle.

15:48:00 2 Usually we're -- there are other agencies, federal agencies that

15:48:07 3 request our assistance, and that pocket trash is turned over to

15:48:11 4 them and to further their investigation.

15:48:15 5 Q. And when you do the pocket trash, do you look at it and do

15:48:19 6 you somehow make a copy of it?

15:48:20 7 A. Yes, sir.

15:48:20 8 Q. And is that copy then placed in a database, a customs

15:48:24 9 database?

15:48:25 10 A. Yes, sir. And/or it's turned over to the agency that

15:48:28 11 requested that information.

15:48:30 12 Q. And who has access to that database?

15:48:32 13 A. Federal officers is the majority of people.

15:48:38 14 Q. I'm showing you Government's Exhibits 355. You and I have

15:48:44 15 looked at these before, but do you recognize those?

15:48:46 16 A. Yes, sir.

15:48:47 17 Q. Is this pocket trash you took on a particular stop?

15:48:51 18 A. Yes, sir.

15:48:52 19 Q. Your Honor, I'd offer Government's Exhibit 355.

15:50:21 20 THE COURT: Hearing no objections, 355 is admitted.

15:50:25 21 Q. (BY MR. GARDNER) Sir, I'd just like to go through these.

15:50:32 22 Just for the jury reference, that's 355 down in the corner if I

15:50:37 23 can get it up there. And so, what are these two items here, sir?

15:50:44 24 A. These were taken off the -- Mr. Armando here. I believe

15:50:50 25 they were in his wallet, part of the pocket trash, and appears to

15:50:54 1 be IDs for Oklahoma Horse Racing Commission.

15:50:57 2 Q. You really can't tell the names from the front of the card,

15:50:59 3 but you also made a copy of the back of the card; is that

15:51:02 4 correct?

15:51:02 5 A. Yes, sir. That's correct.

15:51:03 6 Q. In this case it says, Armando Cabrera-Del la Vega, Princess

15:51:08 7 Ranch and Jorge Luis Ochoa-Gomez with Poker Ranch, correct?

15:51:12 8 A. Yes.

15:51:13 9 Q. That's the second page. This on the third page, pretty

15:51:19 10 self-explanatory?

15:51:20 11 A. Yes, sir. Uh-huh.

15:51:21 12 Q. What is this right here?

15:51:31 13 A. Appears to be a Wells Fargo statement that also the

15:51:35 14 passenger had in his possession.

15:51:37 15 Q. And on that statement, there seemed to be a writing here,

15:51:47 16 Fernie004@hotmail.com?

15:51:50 17 A. Correct.

15:51:50 18 Q. Was this writing on the document when you took possession of

15:51:53 19 it and made a copy of it?

15:51:54 20 A. Yes, sir, it was.

15:51:55 21 Q. Do you know who Fernie004@hotmail.com belongs to?

15:52:00 22 A. No, sir, I do not.

15:52:10 23 Q. Going back again, this appears to be a company formation; is

15:52:14 24 that correct?

15:52:14 25 A. Yes, sir.

15:52:15 1 Q. And this is just a Wells Fargo Bank account business
15:52:21 2 application?

15:52:22 3 A. Correct. Yes, sir.

15:52:24 4 Q. And this is part of the same thing, Desiree Princess Ranch?

15:52:28 5 A. Yes, sir.

15:52:28 6 Q. And I'm not too concerned about the remainder of the
15:52:31 7 business applications, but what I'd like to ask you about is
15:52:41 8 this. It's a little hard to see on the screen. Could you
15:52:44 9 describe for the ladies and gentlemen of the jury what that is a
15:52:46 10 picture of?

15:52:46 11 A. Yes, sir. Appears to be packages of U.S. currency inside of
15:52:51 12 a duffel bag.

15:52:53 13 Q. And it appears to be a BlackBerry telephone. So was this
15:53:04 14 either Mr. Del la Vega's or Mr. Ochoa-Gomez's BlackBerry?

15:53:11 15 A. Yes, sir. It was in his possession at the time of the
15:53:13 16 inspection. Correct.

15:53:14 17 Q. And does the Border Protection Act allow you to look through
15:53:17 18 or scroll through phone contacts and pictures on the phones?

15:53:19 19 A. Yes, sir. Any type of electronic data.

15:53:22 20 Q. Is that what you did in this case?

15:53:24 21 A. Yes, sir.

15:53:24 22 Q. And did you discover that picture?

15:53:26 23 A. Yes, sir.

15:53:28 24 Q. And, again, can you explain to the ladies and gentlemen of
15:53:31 25 the jury what this is a picture of?

15:53:32 1 A. In my nine-and-a-half years of being a U.S. Customs and
15:53:36 2 Border Protection officer, this is consistent with money seizures
15:53:40 3 that I have -- the agency has acquired.
15:53:43 4 Q. And does it appear to be some numbers written on top of the
15:53:47 5 wrapped currency?
15:53:48 6 A. Yes, sir.
15:53:49 7 Q. Is this consistent in your training and experience with
15:53:53 8 narcotics trafficking?
15:53:54 9 A. Yes, sir.
15:53:54 10 Q. Pass the witness, your Honor. Oh, I'm sorry, your Honor.
15:54:01 11 You talked about taking photos of the telephone and
15:54:04 12 looking through the telephone contact list. Is there merely a
15:54:08 13 recitation of the contact list that were contained within that
15:54:10 14 telephone?
15:54:11 15 A. Yes, sir. That's correct.
15:54:12 16 Q. And address? Same thing, correct?
15:54:16 17 A. Yes, sir.
15:54:16 18 Q. So however they had it listed in there, for example, "Jany"
15:54:20 19 and then, a number for that?
15:54:21 20 A. That is correct.
15:54:24 21 Q. Was this all then placed in a database for all the
15:54:28 22 individuals looking for these or possibly these two individuals
15:54:33 23 at a later date?
15:54:34 24 A. That is correct. Yes.
15:54:35 25 Q. Now, we've talked about two individuals or two people

1 identified in the paperwork. Was it one person who you searched
15:54:45 2 the pocket trash or two people you searched the pocket trash?

15:54:47 3 A. Just one person.

15:54:48 4 Q. And do you recall who this person was?

15:54:50 5 A. Yes, sir. Mr. Armando De la Vega.

15:54:55 6 Q. Pass the witness, your Honor.

15:54:57 7 CROSS-EXAMINATION

15:55:03 8 BY MS. WILLIAMS:

15:55:03 9 Q. Are you Mr. Reyes?

15:55:07 10 A. Mr. Reyes is fine. Yes.

15:55:09 11 Q. Mr. Reyes, you testified about your activity at an airport?

15:55:13 12 A. Correct.

15:55:13 13 Q. Are there also Customs and Border Patrol agents who are at
15:55:17 14 the border?

15:55:18 15 A. Yes. There's land border, sea ports-of-entry.

15:55:21 16 Q. So somebody comes to the border, shows their passport,
15:55:24 17 whether they're going one way or the other, depending, you can do
15:55:28 18 the same process?

15:55:29 19 A. Yes. Correct.

15:55:29 20 Q. That's, in effect, since how long?

15:55:33 21 A. I don't know the exact year, but numbers of years maybe. It
15:55:40 22 was enacted by Congress that gives us this authority.

15:55:43 23 Q. So I just want to make sure I understand the process. If my
15:55:49 24 client Jose Trevino was in Mexico and he came into the United
15:55:52 25 States and he has his United States passport, Customs and Border

15:55:57 1 Patrol could, if they wanted to, take his phone, everything
15:56:01 2 that's in his pocket, and go and copy whatever they want to,
15:56:03 3 enter it into this database under his name and his passport
15:56:07 4 information, date of birth, all that identifying information?

15:56:10 5 A. Yes. That is correct.

15:56:12 6 Q. No further questions.

15:56:17 7 MR. DEGEURIN: No questions, your Honor.

15:56:18 8 MR. WOMACK: No questions.

15:56:19 9 MR. ESPER: Your Honor, I just have one clarifying
15:56:21 10 question.

15:56:22 11 CROSS-EXAMINATION

15:56:22 12 BY MR. ESPER:

15:56:23 13 Q. The photograph that's on that BlackBerry.

15:56:24 14 A. Yes, sir.

15:56:25 15 Q. You say that is consistent with the seizure of money?

15:56:27 16 A. In my personal experience, yes, sir.

15:56:28 17 Q. So, in other words, it appears that somebody took a
15:56:32 18 photograph of money that had already been seized by law
15:56:36 19 enforcement?

15:56:36 20 A. No, sir.

15:56:36 21 Q. That's not -- that's not what you're testifying to?

15:56:40 22 A. Exactly. No.

15:56:41 23 Q. Okay. It was just a picture of some money and it had some
15:56:46 24 -- looked like 4,000, I think it went to the thousands or
15:56:49 25 something, correct?

15:56:49 1 A. Correct. Yes, sir.

15:56:50 2 Q. But that was not money that had been seized by law

15:56:55 3 enforcement and then, zipped up in an envelope?

15:56:56 4 A. That is correct, sir.

15:56:57 5 Q. Okay.

15:56:57 6 A. At that time of the inspection there was no seizure of

15:57:01 7 anything.

15:57:02 8 Q. I know you didn't seize any money, but you said that

15:57:05 9 photograph was a photograph of currency that looked like it had

15:57:10 10 been seized.

15:57:10 11 A. No, no. It was a picture of currency. In my personal

15:57:15 12 experience when I see money wrapped like that that appears to be

15:57:19 13 cellophane, it's usually having to do with some type of smuggling

15:57:22 14 of either currency or narcotics.

15:57:24 15 Q. I just wanted to clarify that it wasn't somebody who had

15:57:27 16 access to law enforcement seizure of money and took a picture of

15:57:30 17 it.

15:57:30 18 A. No, sir. To my knowledge, no, sir. It was not.

15:57:33 19 Q. Okay. No further question.

15:57:35 20 MR. MAYR: And I have no question, your Honor.

15:57:36 21 THE COURT: Any redirect?

15:57:38 22 RE-DIRECT EXAMINATION

15:57:38 23 BY MR. GARDNER:

15:57:39 24 Q. On the phones that Mr. Esper asked, I only want to talk

15:57:43 25 about one thing. This phone is a BlackBerry, correct?

15:57:55 1 A. Yes, sir. Appears to be.

15:57:59 2 Q. And just for the record, could you read what that word

15:58:02 3 appears to be?

15:58:03 4 A. Looks like "pines" or "pins."

15:58:07 5 Q. Could it be PINS? BlackBerry PINS?

15:58:10 6 A. Could possibly be. I can't tell for certain.

15:58:13 7 Q. And just for the record, could you tell the jury what this

15:58:19 8 name is?

15:58:19 9 A. "Yo-Yo."

15:58:20 10 Q. "Yo-Yo." It appears to be his PIN behind it, correct?

15:58:23 11 A. Yes, sir.

15:58:23 12 Q. That's all I have, your Honor.

15:58:28 13 THE COURT: May this witness be excused?

15:58:31 14 MS. WILLIAMS: (Moving head up and down.)

15:58:32 15 MR. DEGEURIN: Yes, your Honor.

15:58:33 16 THE COURT: You may be excused, sir.

15:58:35 17 MR. GARDNER: The government calls TFO Johnny Sosa.

15:59:16 18 THE COURT: If you'll come forward, please. This is

15:59:19 19 Mrs. Sims. She's going to administer an oath to you.

15:59:21 20 (Witness sworn.)

15:59:36 21 THE COURT: Tell us your full name and spell your last,

15:59:40 22 please.

15:59:40 23 THE WITNESS: Yes, sir. Johnny Sosa, S-O-S-A.

15:59:40 24 JOHNNY SOSA, called by the Government, duly sworn.

15:59:44 25

15:59:44 1 DIRECT EXAMINATION

15:59:46 2 BY MR. GARDNER:

15:59:46 3 Q. Thank you, your Honor.

15:59:48 4 You go by Agent Sosa?

15:59:50 5 A. Officer Sosa.

15:59:51 6 Q. Officer Sosa?

15:59:52 7 A. Yes, sir.

15:59:52 8 Q. If you will, Officer Sosa, could you introduce yourself to

15:59:55 9 the jury and tell them what you do for a living and where you do

15:59:57 10 it?

15:59:58 11 A. Yes, sir. My name is Johnny Sosa. I'm a Fort Worth Police

16:00:02 12 officer. I've been a police officer for 23 years. In 1998, I

16:00:07 13 was assigned as a task force officer to the Drug Enforcement

16:00:12 14 Administration, and been assigned in that position since that

16:00:13 15 time. My duties and responsibilities include the investigation

16:00:17 16 of large scale drug-trafficking organizations.

16:00:20 17 Q. And, sir, was there an occasion in which you came to arrive

16:00:26 18 at Jose Trevino's residence in Balch Springs, Texas?

16:00:31 19 A. Yes, sir.

16:00:32 20 Q. Do you recall the date of that, sir?

16:00:33 21 A. Yes, sir. That was February 24, 2011.

16:00:36 22 Q. All right. And was that based on another investigation?

16:00:39 23 A. Yes.

16:00:40 24 Q. And where was Mr. Trevino's residence at that time?

16:00:44 25 A. It was at 12909 Timothy Lane in Balch Springs, Texas.

16:00:49 1 Q. Now, the jury has heard some information about an exit on
16:00:54 2 Lake June Road at IH-635. Are you familiar with that exit?
16:00:59 3 A. Yes, sir.
16:00:59 4 Q. Is that also in Balch Springs, Texas?
16:01:02 5 A. Yes.
16:01:03 6 Q. How far would you estimate the distance from that exit to
16:01:06 7 Mr. Trevino's house?
16:01:07 8 A. It's probably like approximately about a mile.
16:01:11 9 Q. And when you went to Mr. Trevino's house on another
16:01:14 10 investigation, was Mr. Trevino home?
16:01:16 11 A. Yes, he was.
16:01:16 12 Q. And who else was home, sir?
16:01:18 13 A. His wife Zulema Trevino was present as well as four
16:01:22 14 children.
16:01:23 15 Q. And did you ask some questions of Mr. Trevino?
16:01:25 16 A. Yes, sir.
16:01:26 17 Q. And what were those questions?
16:01:28 18 A. I asked Mr. Trevino when the last time was that he had seen
16:01:33 19 his brothers Omar or Miguel Trevino, and Mr. Trevino told me that
16:01:38 20 he had not seen or spoken with either brother in over five years.
16:01:43 21 I also --
16:01:44 22 Q. Can I interrupt you for a second?
16:01:46 23 A. Yes, sir.
16:01:46 24 Q. Had either seen or spoke to his brothers in over five years?
16:01:49 25 A. Yes, sir. That's correct.

16:01:50 1 Q. Thank you. Go ahead.

16:01:51 2 A. I also asked Mr. Trevino what he did for a living. He

16:01:55 3 stated that he was a bricklayer by trade, but that he had

16:01:59 4 recently started a business with his wife Zulema and that the

16:02:04 5 business was a racing-horse business. I asked him how he

16:02:09 6 obtained the money to start the business. He stated that he and

16:02:14 7 his wife had saved approximately \$25,000 to start the business,

16:02:19 8 and that they had purchased seven quarter horses, which he was

16:02:24 9 maintaining in different locations to include Mexico, Texas and

16:02:29 10 Oklahoma.

16:02:30 11 Q. Did you ask for consent at his -- an agreement from Mr.

16:02:35 12 Trevino to search his house?

16:02:36 13 A. Yes, sir, I did.

16:02:37 14 Q. And did he willingly provide that consent?

16:02:39 15 A. Yes, he did.

16:02:40 16 Q. And did you search his house?

16:02:41 17 A. Yes, I did.

16:02:42 18 Q. Did you find anything of evidentiary significance?

16:02:44 19 A. No, sir.

16:02:44 20 Q. And was Mr. Trevino cooperative during the whole incident?

16:02:48 21 A. Yes, he was.

16:02:49 22 Q. And was his wife cooperative?

16:02:50 23 A. Yes, sir.

16:02:51 24 Q. All right. And after you searched his house, what did you

16:02:55 25 do then?

16:02:55 1 A. After we finished searching the house, we just left the
16:02:58 2 residence and, you know, thanked Mr. Trevino for his cooperation.
16:03:03 3 Q. And was he pleasant and respectful during the whole
16:03:05 4 incident?
16:03:06 5 A. Yes, sir, he was.
16:03:07 6 Q. I'll pass the witness, your Honor.
16:03:19 7 CROSS-EXAMINATION
16:03:22 8 BY MS. WILLIAMS:
16:03:22 9 Q. So you were conducting an investigation. You knew that this
16:03:41 10 man -- or believed that this man was the brother of Miguel and
16:03:45 11 Omar Trevino. Yes?
16:03:47 12 A. Yes, ma'am.
16:03:49 13 Q. And you went to his house and you knocked on the door?
16:03:52 14 A. Correct.
16:03:52 15 Q. How many people were there?
16:03:53 16 A. I don't recall the exact number, but there were
16:03:57 17 approximately seven to ten investigators, at least, there.
16:04:00 18 Q. Seven to ten investigators went to Mr. Trevino's house to
16:04:03 19 conduct an interview?
16:04:05 20 A. It wasn't to conduct an interview. It was an investigation.
16:04:10 21 Q. So these seven to ten officers went there and what were they
16:04:16 22 wearing?
16:04:17 23 A. We were all wearing clearly identifiable police uniforms,
16:04:21 24 whether they be raid vests that said "police" on the front.
16:04:24 25 Q. I'm sorry, I didn't understand that last part. Raid vests?

16:04:27 1 A. Yeah. Just protective bulletproof vests that we wear that
16:04:32 2 say "police" on the front.

16:04:32 3 Q. Describe what that looks like to the members of the jury.

16:04:34 4 A. I mean, they're various different styles. Every agency has
16:04:37 5 a different type of protective ballistic vests, but they're
16:04:40 6 typically black in color, and typically on the front in white
16:04:44 7 lettering and it will say "police" in big letters so that the
16:04:47 8 individuals there know that it's the police coming to the
16:04:49 9 residence.

16:04:50 10 Q. So it's your SWAT gear basically?

16:04:52 11 A. It's not SWAT gear, but it's what we use when we conduct an
16:04:56 12 enforcement operation.

16:04:57 13 Q. And how many different agencies were represented?

16:05:01 14 A. At that location, I want to say approximately two to three.

16:05:07 15 Q. And who were they?

16:05:09 16 A. Of course, there was DEA. I believe we had some individuals
16:05:12 17 from Homeland Security there, as well, and ATF, as well.

16:05:19 18 Q. And did you, like, physically knock on the door?

16:05:25 19 A. Yes, ma'am.

16:05:25 20 Q. And were all of you there when you knocked on the door?

16:05:28 21 A. Two of us went to the front door. Everybody else remained
16:05:32 22 towards the front area towards the street or the property, and
16:05:36 23 then, I went to the door. I knocked on the door. Mr. Trevino's
16:05:41 24 son answered the door. I asked him if he could get his dad and
16:05:43 25 then, his dad came to the door.

16:05:44 1 Q. Older son or younger son?

16:05:46 2 A. He was, I believe, a younger son but he was -- I mean, he

16:05:51 3 was pretty tall.

16:05:52 4 Q. Was he eight or was he 18?

16:05:53 5 A. He was probably closer to 18. Yeah.

16:05:55 6 Q. And he went and got his dad?

16:05:57 7 A. Yes, ma'am.

16:05:57 8 Q. And he said, come on in?

16:06:01 9 A. Yes, ma'am. I asked him if we could conduct a protective

16:06:05 10 search just to make sure there weren't any other people inside

16:06:08 11 that could actually cause us any harm. He was very cooperative,

16:06:11 12 said, sure, come on in. We went inside, conducted a protective

16:06:15 13 sweep, just kind of shuffled everyone into the kitchen area where

16:06:19 14 we can kind of maintain a visual of everyone that was at the

16:06:22 15 house.

16:06:22 16 Q. And what time of day or night was this?

16:06:24 17 A. It was 7:00 a.m. in the morning.

16:06:26 18 Q. So you showed up at his house at 7:00 a.m. in the morning

16:06:29 19 and you make everybody go into the kitchen, or you asked them to,

16:06:33 20 and they do?

16:06:34 21 A. Yes, ma'am.

16:06:34 22 Q. And then, what do you do?

16:06:35 23 A. At that point, I step outside with Mr. Trevino, and at that

16:06:41 24 point, I started asking him the questions that we spoke about

16:06:44 25 just a minute ago.

16:06:45 1 Q. And he answered all your questions?

16:06:47 2 A. Yes, he did.

16:06:48 3 Q. Did -- when you did your protective search, of course,

16:06:52 4 you're a trained police officer.

16:06:53 5 A. Yes, ma'am.

16:06:54 6 Q. How many years?

16:06:55 7 A. Twenty-three years.

16:06:56 8 Q. And so, when you do your protective search, I know that

16:07:00 9 preliminary -- or mainly you're looking for people who could be a

16:07:07 10 problem to you. Could be a danger?

16:07:09 11 A. We just wanted to make sure there wasn't anybody else in the

16:07:11 12 house that could potentially hurt us.

16:07:13 13 Q. While you're doing that, you're also on alert to see

16:07:15 14 anything illegal?

16:07:18 15 A. Well, as an investigator, we're trained that is where, you

16:07:21 16 know, if we happen to see anything in plain sight that obviously

16:07:25 17 we'd want to, you know, pay attention to everything that may --

16:07:29 18 it could be weapons, drugs, or anything else that may be in the

16:07:31 19 house.

16:07:31 20 Q. Large sums of money?

16:07:32 21 A. Absolutely. Yes.

16:07:33 22 Q. Guns. Anything that obviously causes you to -- your

16:07:41 23 investigator's radar to go up?

16:07:43 24 A. Yes, ma'am.

16:07:43 25 Q. And did you see any of that?

16:07:45 1 A. No, ma'am.

16:07:49 2 Q. How long were you there?

16:07:51 3 A. I want to say we were probably there maybe an hour at the

16:07:55 4 most. Probably closer to like 45 minutes, I would guesstimate.

16:08:00 5 Q. And how much of that time were you outside talking to Mr.

16:08:05 6 Trevino and how much time was spent searching?

16:08:07 7 A. I spent the majority of my time outside talking with Mr.

16:08:11 8 Trevino. The other investigators that were there with me

16:08:13 9 actually were the ones conducting the search inside the

16:08:16 10 residence.

16:08:17 11 Q. No further questions. Thank you.

16:08:18 12 A. Yes, ma'am. Thank you.

16:08:20 13 MR. DEGEURIN: No questions.

16:08:21 14 MR. WOMACK: No questions.

16:08:22 15 MR. ESPER: Nothing, your Honor.

16:08:22 16 MR. MAYR: Nothing, your Honor.

16:08:23 17 THE COURT: May this witness be excused?

16:08:26 18 MR. MAYR: He may, your Honor.

16:08:27 19 MR. GARDNER: Yes, your Honor. Thank you.

16:08:28 20 THE COURT: You're excused, sir.

16:08:30 21 THE WITNESS: Thank you.

16:08:30 22 THE COURT: Call your next witness.

16:08:32 23 MS. FERNALD: The United States would call Jose

16:08:35 24 Hinojosa. Hinojosa.

16:09:09 25 (Witness sworn.)

16:09:31 1 MR. DEGEURIN: May we approach?

16:09:32 2 (At the bench, on the record.)

16:09:39 3 MR. DEGEURIN: I don't think this one's on the list

16:09:40 4 either.

16:09:42 5 MR. GARDNER: I think it was on the list.

16:09:46 6 THE COURT: Who -- I only saw one Hinojosa.

16:09:53 7 MR. DEGEURIN: What's his name?

16:09:54 8 MS. FERNALD: Hinojosa.

16:10:01 9 THE COURT: Jose Carlos? Okay. What's the problem?

16:10:13 10 MR. DEGEURIN: This is not on the list that was given

16:10:17 11 to us last night on witnesses today.

16:10:20 12 MS. FERNALD: That's correct.

16:10:21 13 MR. DEGEURIN: Happens to be a witness that's got a

16:10:24 14 bunch of Jencks and Giglio and stuff.

16:10:31 15 THE COURT: What's your problem, you're not ready?

16:10:33 16 MR. DEGEURIN: We're not ready.

16:10:35 17 MS. FERNALD: And that is correct, your Honor.

16:10:36 18 THE COURT: Okay. Let's put him on in the morning.

16:10:56 19 MS. FERNALD: And I can do business records stuff. So

16:10:58 20 I can do some stuff.

16:11:00 21 THE COURT: All right. Members of the jury, I had

16:11:09 22 requested, because this is a longer trial, the government to give

16:11:14 23 a list of witnesses each day for the next day to the lawyers so

16:11:20 24 that they would know who's coming to testify. And unfortunately,

16:11:26 25 Mr. Hinojosa is on tomorrow's list. So I'm going to put him back

16:11:32 1 in custody, and you'll hear from him tomorrow because it was an
16:11:37 2 omission. The government says that we're going too fast. I
16:11:41 3 don't agree with that. But if it's anybody's fault, it's mine.
16:11:48 4 So we'll see you tomorrow, sir.

16:11:53 5 THE WITNESS: Okay.

16:12:17 6 THE COURT: Call your next witness.

16:12:18 7 MS. FERNALD: At this time, I'd like to go through the
16:12:23 8 time trying to get some business records affidavits and business
16:12:27 9 records, a little bit tedious, and it has to get on the record.
16:12:30 10 And I'm going to start with Government's Exhibit 226, which is
16:12:35 11 the AQHA records that were previously admitted yesterday.

16:12:39 12 THE COURT: All right. Let me stop you. When she says
16:12:44 13 there's an affidavit, the statutes allow all parties to put in
16:12:50 14 business records if they have the appropriate affidavit and
16:12:55 15 authorization that they are, in fact, business records that were
16:12:59 16 maintained in a business, and they were recorded at or near the
16:13:04 17 time that they say they're recorded, and that they're the normal
16:13:10 18 type of records kept in a business.

16:13:14 19 So that's when she says a certificate, she's talking

16:13:17 20 about a certificate of a person who has custody of those records.

16:13:21 21 That's what we're talking about.

16:13:24 22 Stay awake if you can. All right. Let's proceed.

16:13:28 23 MS. FERNALD: I don't sing or dance very well, but I'll
16:13:31 24 try.

16:13:31 25 Your Honor, in reference to the previously admitted

1 record of 226 of AQHA records, I previously cited that it was
16:13:39 2 Bates stamp No. 61. I would also like to include that it was
16:13:43 3 Bates stamp No. 16, in addition to 61. In reference to 227,
16:13:56 4 talking about horse-racing records, the government would move to
16:13:59 5 introduce 227, Bates stamps No. 23 and 55.

16:14:09 6 Would you like for me to do this cumulative, your
16:14:13 7 Honor, instead of waiting for a ruling on each one?

16:14:15 8 THE COURT: I think they need to have a ruling on each
16:14:17 9 one as we proceed. First on 26 -- 226, Bates stamp 16.

16:14:24 10 MS. FERNALD: And 61.

16:14:25 11 THE COURT: And 61. I thought -- all right. Sixty-one
16:14:28 12 and 16.

16:14:30 13 MS. FERNALD: It's already been admitted.

16:14:32 14 THE COURT: That's what I thought.

16:14:33 15 MS. FERNALD: So may I move to the next one, which is
16:14:36 16 227, Bates stamp No. 23 and 55?

16:14:44 17 MS. WILLIAMS: Bates stamp 55 is associated with
16:14:48 18 Exhibit No. 317.

16:14:49 19 MS. FERNALD: Fifty-five has numerous records in it.
16:14:52 20 Bates stamp No. 55 had page number in reference to Schvaneveldt.

16:15:01 21 Sixty-one --

16:15:01 22 THE COURT: Okay. I think it only fair to make the
16:15:09 23 lawyers work and get all these numbers straight so that they can
16:15:12 24 see what they're doing. So I'm going to let you go home early
16:15:17 25 today, and we'll have the lawyers stay until they get this list

16:15:23 1 through and we know if there's any objections and I can rule on
16:15:26 2 them. There's no point in having y'all just sitting here
16:15:30 3 listening.

16:15:31 4 So when you come back in the morning, you'll have to
16:15:34 5 listen, but it will be pretty quick. Remember the instructions.
16:15:38 6 Be able to answer those questions "No" tomorrow. And I will see
16:15:43 7 you at 8:30 in the morning.

16:16:22 8 (Jury not present.)

16:16:34 9 THE COURT: Okay. We'll let Ms. Fernald be the
16:16:42 10 instructor. Get your exhibits out. Let's find out if there are
16:16:47 11 any objections. Are all these under business records affidavits?

16:16:51 12 MS. FERNALD: Yes. And, your Honor, I apologize. Some
16:16:53 13 of my frustration, these have been available for them to look at.
16:16:56 14 We have sent them copies on discs to look at. I've given them
16:17:01 15 notice.

16:17:01 16 THE COURT: I know I have -- I'm not giving any
16:17:05 17 instructions to the jury. I'm well aware the government supplied
16:17:10 18 this months ago. If it comes up, I will have no hesitation to
16:17:14 19 instruct the jury of that. But that's not the point.

16:17:18 20 The point is, now you're going to tender them into
16:17:21 21 evidence, so I want y'all to figure out which they are and if you
16:17:25 22 have any objections. We're not leaving here until they're all
16:17:28 23 ruled on. All right.

16:17:31 24 MS. WILLIAMS: To be fair to us, your Honor, that is
16:17:33 25 all true, but the government has provided us with this exhibit

16:17:36 1 list, and they've never told us what Bates numbers go with what
16:17:41 2 exhibits. And so, 55 --

16:17:44 3 MS. FERNALD: On the notice. They're on the notice.

16:17:49 4 There's three notices that have been filed each time.

16:17:52 5 MS. WILLIAMS: And it does. It says what Bates --

16:17:54 6 prefix it has, but Bates prefix might be 10,000 records long and

16:18:01 7 we don't know -- 55 can be in three or four different exhibits.

16:18:05 8 That's why I keep asking for a Bates range when these exhibits

16:18:09 9 come in. So we have some frustration of our own for the record.

16:18:16 10 THE COURT: I don't have time to share my frustration.

16:18:23 11 So let me repeat. She will instruct you on what we are doing.

16:18:30 12 Make notes if you have any objections. I rather suspect there

16:18:35 13 are not any or many objections, since these are all business

16:18:39 14 records, but let's start now and complete it. And how many

16:18:51 15 exhibits do you have?

16:18:53 16 MS. FERNALD: Fifty.

16:18:54 17 THE COURT: Okay. All right. I'm going to recess

16:18:59 18 until 8:00 in the morning. I will meet with you at 8:00 in the

16:19:03 19 morning. I, too, will go home, make sure I have family. I'll

16:19:09 20 hear all of the objections at 8:00 a.m.

16:19:11 21 MS. FERNALD: And, your Honor, just for all of the

16:19:12 22 parties and so the Court will know, I'm mainly talking about

16:19:16 23 Government's Exhibits 226 through 323. So those are the

16:19:27 24 concentrated areas.

16:19:32 25 THE COURT: So just 94, huh?

16:19:39 1 MS. FERNALD: Well, there's some numbers missing.
16:19:42 2 THE COURT: That's all right. I know you've got a lot
16:19:43 3 of paper. 8:00 in the morning, counsel. Have a good evening.
16:19:43 4 (Proceedings adjourned.)
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